

108TH CONGRESS  
2D SESSION

# **H. R. 4200**

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## **AN ACT**

To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Defense Au-  
 5       thorization Act for Fiscal Year 2005”.

6       **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF**  
 7               **CONTENTS.**

8       (a) DIVISIONS.—This Act is organized into three divi-  
 9       sions as follows:

10           (1) Division A—Department of Defense Au-  
 11       thorizations.

12           (2) Division B—Military Construction Author-  
 13       izations.

14           (3) Division C—Department of Energy Na-  
 15       tional Security Authorizations and Other Authoriza-  
 16       tions.

17       (b) TABLE OF CONTENTS.—The table of contents for  
 18       this Act is as follows:

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Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees.

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Sec. 103. Air Force.

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- Sec. 2702. Extension of authorizations of certain fiscal year 2002 projects.
- Sec. 2703. Extension and renewal of authorizations of certain fiscal year 2001 projects.
- Sec. 2704. Effective date.

## **TITLE XXVIII—GENERAL PROVISIONS**

**Subtitle A—Military Construction Program and Military Family Housing Changes**

- Sec. 2801. Increase in certain thresholds for carrying out unspecified minor military construction projects.
- Sec. 2802. Assessment of vulnerability of military installations to terrorist attack and annual report on military construction requirements related to antiterrorism and force protection.
- Sec. 2803. Change in threshold for congressional notification regarding use of operation and maintenance funds for facility repair.
- Sec. 2804. Reporting requirements regarding military family housing requirements for general officers and flag officers.
- Sec. 2805. Congressional notification of deviations from authorized cost variations for military construction projects and military family housing projects.
- Sec. 2806. Repeal of limitation on use of alternative authority for acquisition and improvement of military family housing.
- Sec. 2807. Temporary authority to accelerate design efforts for military construction projects carried out using design-build selection procedures.
- Sec. 2808. Exchange or sale of reserve component facilities to acquire replacement facilities.
- Sec. 2809. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
- Sec. 2810. Consideration of combination of military medical treatment facilities and health care facilities of Department of Veterans Affairs.

**Subtitle B—Real Property and Facilities Administration**

- Sec. 2811. Increase in certain thresholds for reporting real property transactions.
- Sec. 2812. Reorganization of existing administrative provisions relating to real property transactions.
- Sec. 2813. Treatment of money rentals from golf course at Rock Island Arsenal, Illinois.
- Sec. 2814. Number of contracts authorized department-wide under demonstration program on reduction in long-term facility maintenance costs.
- Sec. 2815. Repeal of Commission on Review of Overseas Military Facility Structure of the United States.
- Sec. 2816. Designation of Airmen Leadership School at Luke Air Force Base, Arizona, in honor of John J. Rhodes, a former minority leader of the House of Representatives.
- Sec. 2817. Elimination of reversionary interests clouding United States title to property used as Navy homeports.
- Sec. 2818. Report on feasibility of veterans memorial at Marine Corps Air Station, El Toro, California.

**Subtitle C—Base Closure and Realignment**

- Sec. 2821. Two-year postponement of 2005 base closure and realignment round and submission of reports regarding future infrastructure requirements for the armed forces.



- Sec. 2822. Establishment of specific deadline for submission of revisions to force-structure plan and infrastructure inventory for next base closure round.
- Sec. 2823. Specification of final selection criteria for next base closure round.
- Sec. 2824. Requirement for unanimous vote of Defense Base Closure and Realignment Commission to add to or otherwise expand closure and realignment recommendations made by Secretary of Defense.
- Sec. 2825. Adherence to certain authorities on preservation of military depot capabilities during any subsequent round of base closures and realignments.

### **Subtitle D—Land Conveyances**

#### **PART I—ARMY CONVEYANCES**

- Sec. 2831. Transfer of administrative jurisdiction, Defense Supply Center, Columbus, Ohio.
- Sec. 2832. Land conveyance, Fort Hood, Texas.
- Sec. 2833. Land conveyance, Army National Guard Facility, Seattle, Washington.
- Sec. 2834. Modification of land exchange and consolidation, Fort Lewis, Washington.

#### **PART II—NAVY CONVEYANCES**

- Sec. 2841. Transfer of jurisdiction, Nebraska Avenue Naval Complex, District of Columbia.
- Sec. 2842. Land conveyance, Navy property, former Fort Sheridan, Illinois.
- Sec. 2843. Land exchange, Naval Air Station, Patuxent River, Maryland.

#### **PART III—AIR FORCE CONVEYANCES**

- Sec. 2851. Land exchange, Maxwell Air Force Base, Alabama.

## **DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

### **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

#### **Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.

#### **Subtitle B—Program Authorizations, Restrictions, and Limitations**

- Sec. 3111. Extension of authority for appointment of certain scientific, engineering, and technical personnel.
- Sec. 3112. Requirements for baseline of projects under Facilities and Infrastructure Recapitalization Program.

#### **Subtitle C—Other Matters**

- Sec. 3131. Transfers and reprogrammings of National Nuclear Security Administration funds.
- Sec. 3132. National Academy of Sciences study on management by Department of Energy of high-level radioactive waste.
- Sec. 3133. Contract to review Waste Isolation Pilot Plant, New Mexico.
- Sec. 3134. Additional amount for defense site acceleration completion.
- Sec. 3135. Improvements to energy employees occupational illness compensation program.

## **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

- Sec. 3201. Authorization.

## **TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

- Sec. 3301. Authorized uses of National Defense Stockpile funds.
- Sec. 3302. Relaxation of quantity restrictions on disposal of manganese ferro in National Defense Stockpile.
- Sec. 3303. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.

## **TITLE XXXIV—NAVAL PETROLEUM RESERVES**

- Sec. 3401. Authorization of appropriations.

## **TITLE XXXV—MARITIME ADMINISTRATION**

- Sec. 3501. Authorization of appropriations for Maritime Administration.
- Sec. 3502. Extension of authority to provide war risk insurance for merchant marine vessels.

## **TITLE XXXVI—SMALL BUSINESS ADMINISTRATION**

- Sec. 3601. Addition of landscaping and pest control services to list of designated industry groups participating in the small business competitiveness demonstration program.

### **1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

- 2 For purposes of this Act, the term “congressional de-
- 3 fense committees” has the meaning given that term in sec-
- 4 tion 101(a)(16) of title 10, United States Code.

1     **DIVISION A—DEPARTMENT OF**  
2     **DEFENSE AUTHORIZATIONS**  
3     **TITLE I—PROCUREMENT**  
4     **Subtitle A—Authorization of**  
5     **Appropriations**

6     **SEC. 101. ARMY.**

7         Funds are hereby authorized to be appropriated for  
8     fiscal year 2005 for procurement for the Army as follows:

9             (1) For aircraft, \$2,805,941,000.

10            (2) For missiles, \$1,414,321,000.

11            (3) For weapons and tracked combat vehicles,  
12     \$1,739,695,000.

13            (4) For ammunition, \$1,729,402,000.

14            (5) For other procurement, \$4,313,640,000.

15     **SEC. 102. NAVY AND MARINE CORPS.**

16         (a) NAVY.—Funds are hereby authorized to be appro-  
17     priated for fiscal year 2005 for procurement for the Navy  
18     as follows:

19             (1) For aircraft, \$8,912,667,000.

20             (2) For weapons, including missiles and tor-  
21     pedoes, \$2,253,454,000.

22             (3) For ammunition, \$870,840,000.

23             (4) For shipbuilding and conversion,  
24     \$10,120,027,000.

25             (5) For other procurement, \$4,876,725,000.

1 (b) MARINE CORPS.—Funds are hereby authorized to  
2 be appropriated for fiscal year 2005 for procurement for  
3 the Marine Corps in the amount of \$1,315,103,000.

4 **SEC. 103. AIR FORCE.**

5 Funds are hereby authorized to be appropriated for  
6 fiscal year 2005 for procurement for the Air Force as fol-  
7 lows:

8 (1) For aircraft, \$13,649,174,000.

9 (2) For ammunition, \$1,396,457,000.

10 (3) For missiles, \$4,638,313,000.

11 (4) For other procurement, \$13,229,257,000.

12 **SEC. 104. DEFENSE-WIDE ACTIVITIES.**

13 Funds are hereby authorized to be appropriated for  
14 fiscal year 2005 for Defense-wide procurement in the  
15 amount of \$2,950,702,000.

16 **Subtitle B—Program Matters**

17 **SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR THE**

18 **LIGHT-WEIGHT 155-MILLIMETER HOWITZER**

19 **PROGRAM.**

20 The Secretary of the Army and the Secretary of the  
21 Navy may, in accordance with section 2306b of title 10,  
22 United States Code, jointly enter into a multiyear con-  
23 tract, beginning with the fiscal year 2005 program year,  
24 for procurement of the light-weight 155-millimeter how-  
25 itzer.

1 **SEC. 112. DDG-51 MODERNIZATION PROGRAM.**

2 (a) ACCELERATION OF MODERNIZATION PRO-  
3 GRAM.—The Secretary of the Navy shall accelerate the  
4 program for in-service modernization of the DDG-51 class  
5 of destroyers. As part of that modernization program, the  
6 Secretary shall include additional emphasis on deter-  
7 mining a means to reduce crew size from approximately  
8 300 to about 200.

9 (b) REPORT.—Not later than March 31, 2005, the  
10 Secretary of the Navy shall submit to the congressional  
11 defense committees a report on the steps taken as of that  
12 date to carry out subsection (a).

13 **SEC. 113. REPEAL OF AUTHORITY FOR PILOT PROGRAM**  
14 **FOR FLEXIBLE FUNDING OF CRUISER CON-**  
15 **VERSIONS AND OVERHAULS.**

16 Section 126 of the National Defense Authorization  
17 Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat.  
18 1410; 10 U.S.C. 7291 note) is repealed.

19 **SEC. 114. FORCE PROTECTION FOR ASYMMETRIC THREAT**  
20 **ENVIRONMENT.**

21 (a) REQUIREMENT FOR ASYMMETRIC THREAT AS-  
22 SESSMENT.—(1) The Secretary of Defense shall require  
23 the Secretary of each military department to perform an  
24 assessment of the survivability and suitability against  
25 asymmetrical threats of each of the following military sys-  
26 tems under the jurisdiction of that Secretary:

1           (A) Each manned ground system or war-fighter  
2       survivability system that may be required to deploy  
3       in an asymmetrical threat environment.

4           (B) Each manned airborne system that may be  
5       required to deploy in an asymmetrical threat envi-  
6       ronment.

7       (2) For each system covered by paragraph (1), the  
8       Secretary concerned shall establish the key performance  
9       parameters for survivability and suitability against asym-  
10      metric threats.

11      (3) The assessments under paragraph (1) shall be  
12      completed not later than July 1, 2005.

13      (4) The Secretary of each military department shall  
14      review annually the assessments under paragraph (1) con-  
15      ducted by that Secretary to ensure that the assessments  
16      remains relevant to the asymmetric threat environment.

17      (b) REQUIREMENT FOR FORCE PROTECTION.—(1)  
18      The Secretary of Defense shall require the Secretary of  
19      each military department, for each system covered by sub-  
20      section (a)(1) under that Secretary's jurisdiction, either  
21      to—

22           (A) take each of the force protection or surviv-  
23      ability steps specified in paragraph (2); or

24           (B) restrict the system from deployment to an  
25      asymmetrical threat environment.

1       (2) The force protection or survivability steps for a  
2 system covered by subsection (a)(1) are the following:

3           (A) Development of force protection or surviv-  
4 ability enhancements for the system that meet the  
5 key performance parameters established for that sys-  
6 tem under subsection (a)(2).

7           (B) Budgeting for in-service modification pro-  
8 grams for the system to provide force protection and  
9 survivability enhancements developed under subpara-  
10 graph (A).

11          (C) Development of tactics, techniques, and  
12 procedures for the system to maximize force protec-  
13 tion and survivability.

14       (c) WAIVER.—The Secretary of Defense may waive  
15 the applicability of subsection (b) to a system covered by  
16 subsection (a)(1) if the Secretary determines that, but for  
17 such a waiver, the Department would be unable to meet  
18 national security objectives. Whenever the Secretary  
19 makes such a determination and authorizes such a waiver,  
20 the Secretary shall submit notice of such waiver and of  
21 the Secretary's determination and the reasons therefor in  
22 writing to the congressional defense committees.

23       (d) REQUIREMENT FOR NEW DEVELOPMENT MILI-  
24 TARY ACQUISITION PROGRAMS.—The Secretary of De-  
25 fense shall require the Secretary of each military depart-

1 ment, for each military acquisition program that has not  
2 entered low-rate initial production as of the date of the  
3 enactment of this Act, to include in the development of  
4 that program—

5 (1) as part of the system requirements develop-  
6 ment, assessments of war-fighter survivability and of  
7 system suitability against asymmetrical threats; and

8 (2) as part of the documentation of system re-  
9 quirements, requirements for key performance pa-  
10 rameters for force protection and survivability.

11 (e) ASYMMETRICAL THREAT ENVIRONMENT.—For  
12 purposes of this section, the term “asymmetrical threat  
13 environment”, with respect to a manned system, means  
14 a security, stability, or peacekeeping operation in which  
15 the system is deployed or any other such environment in  
16 which an asymmetrical threat may exist (or, in the case  
17 of a manned airborne system, another such environment  
18 in which airborne operations would subject the system to  
19 a ground-based asymmetrical threat).

20 **SEC. 115. ALLOCATION OF EQUIPMENT AUTHORIZED BY**  
21 **THIS TITLE TO BE MADE ON BASIS OF UNITS**  
22 **DEPLOYED OR PREPARING TO DEPLOY.**

23 The Secretary of Defense shall provide that, in the  
24 allocation to operational units of equipment acquired using  
25 funds authorized to be appropriated by this title, priority



1 shall be given to units that are deployed to, or preparing  
2 to deploy to, Operation Iraqi Freedom or Operation En-  
3 during Freedom, regardless of the status of those units  
4 as active, Guard, or reserve component units.

5 **SEC. 116. MULTIYEAR PROCUREMENT AUTHORITY FOR KC-**  
6 **767 TANKER AIRCRAFT ACQUISITION PRO-**  
7 **GRAM.**

8 (a) MULTIYEAR PROCUREMENT AUTHORITY.—(1)  
9 The Secretary of the Air Force may, in accordance with  
10 section 2306b of title 10, United States Code, enter into  
11 a multiyear contract, beginning with the fiscal year 2005  
12 program year, for procurement of 80 KC–767 tanker air-  
13 craft.

14 (2) Notwithstanding subsection (k) of section 2306b  
15 of title 10, United States Code, a contract under this sub-  
16 section may be for any period not in excess of eight pro-  
17 gram years.

18 (b) LIMITATION.—Subsection (b) of section 135 of  
19 the National Defense Authorization Act for Fiscal Year  
20 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C.  
21 2401a note) is repealed.

22 (c) RELATIONSHIP TO PREVIOUS LAW.—The  
23 multiyear procurement authority in subsection (a) may  
24 not be executed under section 135 of the National Defense  
25 Authorization Act for Fiscal Year 2004 (Public Law 108–

1 136; 117 Stat. 1413; 10 U.S.C. 2401a note) or under sec-  
2 tion 8159 of the Department of Defense Appropriations  
3 Act, 2002 (division A of Public Law 107–117).

4 **SEC. 117. OTHER MATTERS RELATING TO KC-767 TANKER**  
5 **AIRCRAFT ACQUISITION PROGRAM.**

6 (a) SENSE OF CONGRESS.—It is the sense of Con-  
7 gress that—

8 (1) aerial refueling capability for the Armed  
9 Forces is a critical combat force multiplier;

10 (2) the Nation must expeditiously proceed with  
11 a program to replace the Air Force’s aging fleet of  
12 aerial refueling tankers;

13 (3) in pursuing an aerial refueling tanker pro-  
14 gram, the Department of Defense should take full  
15 advantage of the United States commercial aircraft  
16 production base; and

17 (4) anyone suspected of involvement in im-  
18 proper or illegal activities associated with such a  
19 program should be investigated and, if warranted,  
20 prosecuted to the fullest extent of the law.

21 (b) REQUIREMENT FOR RENEGOTIATION OF CON-  
22 TRACT.—The Secretary of the Air Force shall enter into  
23 one or more contracts for the Air Force multiyear tanker  
24 aircraft program no later than March 1, 2005, provided  
25 that any such contract is negotiated after June 1, 2004.

1       (c) REVIEW BY OUTSIDE PANEL.—(1) The Secretary  
2 of Defense shall establish a panel of experts from outside  
3 the Department of Defense to review any proposed con-  
4 tract for the multiyear tanker aircraft program. The panel  
5 shall be comprised of individuals who, by reason of edu-  
6 cation, training, or experience, have expertise relevant to  
7 the evaluation of a proposed contract for the lease or pro-  
8 curement of aircraft under that program.

9       (2) The panel shall review any proposed contract for  
10 the multiyear tanker aircraft program to assess, and assist  
11 the Secretary of the Air Force in determining, whether  
12 the Air Force would under that contract obtain the best  
13 value for funds expended. The panel shall serve in what-  
14 ever manner the Secretary of Defense determines is appro-  
15 priate to provide an independent review of any such pro-  
16 posed contract. The Secretary shall provide for the panel  
17 to make a determination of, and to advise the Secretary  
18 of the Air Force on, what would constitute a fair and rea-  
19 sonable contract for that program.

20       (d) REPORT.—The Secretary of Defense shall provide  
21 for the panel established under subsection (c) to submit  
22 a report providing the results of its review to the Secretary  
23 of the Air Force and the congressional defense commit-  
24 tees.

1 (e) MULTIYEAR TANKER AIRCRAFT PROGRAM DE-  
2 FINED.—In this section, the term “multiyear tanker air-  
3 craft program” means the program for—

4 (1) lease of no more than 20 aerial refueling  
5 aircraft for the Air Force authorized under section  
6 8159 of the Department of Defense Appropriations  
7 Act, 2002 (division A of Public Law 107–117; 115  
8 Stat. 2284), subject to section 135(a) of the Na-  
9 tional Defense Authorization Act for Fiscal Year  
10 2004 (Public Law 108–136; 117 Stat. 1413); and

11 (2) procurement of no more than 80 KC–767  
12 tanker aircraft for which a multiyear procurement  
13 contract is authorized by section 116(a) of this Act.

14 (f) INTERPRETATION.—Section 134 of the National  
15 Defense Authorization Act for Fiscal Year 2004 (Public  
16 Law 108–136; 117 Stat. 1412) is amended by adding at  
17 the end the following new subsection:

18 “(c) INTERPRETATION.—Nothing in subsection (b) or  
19 section 1111 of the Emergency Supplemental Appropria-  
20 tions Act for Defense and for the Reconstruction of Iraq  
21 and Afghanistan, 2004 (Public Law 108–106; 117 Stat.  
22 1215) is intended to prohibit the Secretary of the Air  
23 Force from executing the program described in section  
24 135(a) of this Act and section 116 of the National Defense  
25 Authorization Act for Fiscal Year 2005.”.

1 **SEC. 118. ADDITIONAL AMOUNT FOR PATRIOT MISSILE**  
2 **PROCUREMENT.**

3 (a) ADDITIONAL AMOUNTS.—The amount in section  
4 101 for Army procurement, missiles, is hereby increased  
5 by \$90,000,000, to be available for Patriot missiles.

6 (b) OFFSETTING REDUCTIONS.—(1) The amount in  
7 section 101 for Other Support Space Programs is hereby  
8 decreased by \$27,000,000, to be derived from Titan Space  
9 Boosters (SPACE).

10 (2) The amount in section 301(4) for operation and  
11 maintenance, Air Force, is hereby reduced by  
12 \$15,000,000, to be derived from the transportation work-  
13 ing capital fund.

14 (3) The amount in section 201(4) for research, devel-  
15 opment, test, and evaluation, defense-wide, is hereby re-  
16 duced by \$48,000,000, to be derived from the Ballistic  
17 Missile Defense System Interceptor program element (PE  
18 63886C).

19 **SEC. 119. TRANSFER OF CERTAIN ARMY PROCUREMENT**  
20 **FUNDS.**

21 (a) INCREASE FOR CERTAIN HELICOPTER ITEMS.—  
22 The amount provided in section 101(1) for procurement  
23 of aircraft for the Army is hereby increased by  
24 \$4,000,000, of which—

25 (1) \$2,000,000 shall be available for procure-  
26 ment of the Aircraft Wireless Intercom System; and

1           (2) \$2,000,000 shall be available for procure-  
2           ment of blade-fold kits for Apache Helicopters.

3           (b) OFFSET.—The amount provided in section  
4 101(5) for Other Procurement, Army, is hereby reduced  
5 by \$4,000,000, to be derived from amounts for Informa-  
6 tion Systems.

7 **TITLE II—RESEARCH, DEVELOP-**  
8 **MENT, TEST, AND EVALUA-**  
9 **TION**

10 **Subtitle A—Authorization of**  
11 **Appropriations**

12 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

13           Funds are hereby authorized to be appropriated for  
14 fiscal year 2005 for the use of the Department of Defense  
15 for research, development, test, and evaluation as follows:

16           (1) For the Army, \$9,478,164,000.

17           (2) For the Navy, \$16,047,841,000.

18           (3) For the Air Force, \$21,527,967,000.

19           (4)       For       Defense-wide       activities,  
20 \$21,074,389,000, of which \$305,135,000 is author-  
21 ized for the Director of Operational Test and Eval-  
22 uation.

1 **SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECH-**  
2 **NOLOGY.**

3 (a) FISCAL YEAR 2005.—Of the amounts authorized  
4 to be appropriated by section 201, \$11,067,698,000 shall  
5 be available for the Defense Science and Technology Pro-  
6 gram, including basic research, applied research, and ad-  
7 vanced technology development projects.

8 (b) BASIC RESEARCH, APPLIED RESEARCH, AND AD-  
9 VANCED TECHNOLOGY DEVELOPMENT DEFINED.—For  
10 purposes of this section, the term “basic research, applied  
11 research, and advanced technology development” means  
12 work funded in program elements for defense research and  
13 development under Department of Defense category 6.1,  
14 6.2, or 6.3.

15 **SEC. 203. PROGRAM INCREASES.**

16 (a) NANO-COMPOSITE HARD-COAT FOR AIRCRAFT  
17 CANOPIES.—The amount provided in section 201(2) for  
18 research development, test and evaluation, Navy, is hereby  
19 increased by \$5,000,000, to be available for Nano-com-  
20 posite hard-coat for aircraft canopies in Program Element  
21 0205633N.

22 (b) COMMAND-AND-CONTROL SERVICE LEVEL MAN-  
23 AGEMENT.—The amount provided in section 201(3) for  
24 research development, test and evaluation, Air Force, is  
25 hereby increased by \$5,000,000, to be available for com-  
26 mand-and-control service level management in Program

1 Element 0207443F for best-commercial practices and en-  
 2 terprise wide architectures for military command-and-con-  
 3 trol applications.

4 **Subtitle B—Program Requirements, Restrictions, and Limita-**  
 5 **ments, Restrictions, and Limita-**  
 6 **tions**

7 **SEC. 211. FUTURE COMBAT SYSTEMS PROGRAM STRATEGY.**

8 (a) PROGRAM STRATEGY REQUIRED.—The Secretary  
 9 of the Army shall establish and implement a program  
 10 strategy for the Future Combat Systems acquisition pro-  
 11 gram of the Army. The purpose of the program strategy  
 12 shall be to provide an effective, affordable, producible, and  
 13 supportable military capability with a realistic schedule  
 14 and a robust cost estimate.

15 (b) ELEMENTS OF PROGRAM STRATEGY.—The pro-  
 16 gram strategy shall—

17 (1) require the release, at the design readiness  
 18 review, of not less than 90 percent of engineering  
 19 drawings for the building of prototypes;

20 (2) require, before facilitating production or  
 21 contracting for items with long lead times, that an  
 22 acceptable demonstration be carried out of the per-  
 23 formance of the information network, including the  
 24 performance of the Joint Tactical Radio System and  
 25 the Warfighter Information Network-Tactical; and



1           (3) require, before the initial production deci-  
2           sion, that an acceptable demonstration be carried  
3           out of the collective capability of each system to  
4           meet system-of-systems requirements when inte-  
5           grated with the information network.

6           (c) REQUIRED SUBMISSIONS TO CONGRESS.—Before  
7           convening the Milestone B update for the Future Combat  
8           Systems acquisition program required by the Future Com-  
9           bat Systems acquisition decision memorandum, the Under  
10          Secretary of Defense for Acquisition, Technology, and Lo-  
11          gistics shall submit to Congress each of the following docu-  
12          ments:

13           (1) The independent cost estimate with respect  
14           to the program prepared by the cost analysis im-  
15           provement group of the Office of the Secretary of  
16           Defense.

17           (2) A report, prepared by an independent panel,  
18           on the maturity levels of the critical technologies  
19           with respect to the program, including an assess-  
20           ment of those technologies that are likely to require  
21           a decision to use an alternative approach.

22           (3) A report, prepared by the chief information  
23           officer of the Army, describing—

24                   (A) the status of the development and inte-  
25                   gration of the network and the command, con-

1           trol, computers, communications, intelligence,  
2           surveillance, and reconnaissance components;  
3           and

4                   (B) the progress made toward meeting the  
5           requirements for network-centric capabilities as  
6           set forth by such officer.

7           (4) A report identifying the key performance  
8           parameters with respect to the program, with all ob-  
9           jectives and thresholds quantified, together with the  
10          supporting analytical rationale.

11          (d) LIMITATION ON FUNDING.—(1) Except as pro-  
12       vided in paragraph (2), the Secretary of the Army may  
13       not obligate, from amounts made available for fiscal year  
14       2005, more than \$2,200,000,000 for the Future Combat  
15       Systems acquisition program.

16          (2) The limitation in paragraph (1) shall not apply  
17       after the Secretary of the Army submits to Congress the  
18       Secretary's certification that the Secretary has established  
19       and implemented the program strategy required by sub-  
20       section (a).

21       **SEC. 212. COLLABORATIVE PROGRAM FOR RESEARCH AND**  
22                       **DEVELOPMENT OF VACUUM ELECTRONICS**  
23                       **TECHNOLOGIES.**

24          (a) PROGRAM REQUIRED.—The Secretary of Defense  
25       shall establish a program for research and development

1 in advanced vacuum electronics to meet the requirements  
2 of the Department of Defense electromagnetic systems.

3 (b) DESCRIPTION OF PROGRAM.—The program  
4 under subsection (a) shall be carried out collaboratively  
5 by the Director of Defense Research and Engineering, the  
6 Secretary of the Navy, the Secretary of the Air Force, the  
7 Secretary of the Army, and other appropriate elements of  
8 the Department of Defense. The program shall include the  
9 following activities:

10 (1) Activities needed for development and matu-  
11 ration of advanced vacuum electronics technologies  
12 needed to meet the requirements of the Department  
13 of Defense.

14 (2) Identification of legacy and developmental  
15 electromagnetic systems for use of advanced vacuum  
16 electronics under the program.

17 (c) REPORT.—Not later than January 31, 2005, the  
18 Director of Defense Research and Engineering shall sub-  
19 mit to the congressional defense committees a report on  
20 the implementation of the program under subsection (a).  
21 The report shall include the following:

22 (1) Identification of the officer to have lead re-  
23 sponsibility for carrying out the program.

1           (2) A description of the management plan for  
2           the program and any agreements relating to that  
3           plan.

4           (3) A schedule for the program.

5           (4) Identification of the funding required for  
6           fiscal year 2006 and for the future-years defense  
7           program to carry out the program.

8           (5) A list of program capability goals and objec-  
9           tives.

10          (d) FUNDING.—Of the funds authorized to be appro-  
11        priated in section 201—

12           (1) \$13,500,000 shall be available in program  
13        element 62771N for applied research in vacuum  
14        electronics; and

15           (2) \$5,000,000 shall be available in program  
16        element 63771N for advanced technology develop-  
17        ment in vacuum electronics.

18       **SEC. 213. ANNUAL COMPTROLLER GENERAL REPORT ON**  
19       **JOINT STRIKE FIGHTER PROGRAM.**

20       (a) ANNUAL GAO REVIEW.—The Comptroller Gen-  
21       eral shall conduct an annual review of the Joint Strike  
22       Fighter aircraft program and shall, not later than March  
23       15 of each year, submit to Congress a report on the results  
24       of the most recent review. With each such report, the  
25       Comptroller General shall submit a certification as to

1 whether the Comptroller General has had access to suffi-  
2 cient information to enable the Comptroller General to  
3 make informed judgments on the matters covered by the  
4 report.

5 (b) MATTERS TO BE INCLUDED.—Each report on the  
6 Joint Strike Fighter aircraft program under subsection  
7 (a) shall include the following with respect to system devel-  
8 opment and demonstration under the program:

9 (1) The extent to which such system develop-  
10 ment and demonstration is meeting established  
11 goals, including the goals established for perform-  
12 ance, cost, and schedule.

13 (2) The plan for such system development and  
14 demonstration (leading to production) for the fiscal  
15 year that begins in the year in which the report is  
16 submitted.

17 (3) The Comptroller General's conclusion re-  
18 garding whether such system development and dem-  
19 onstration (leading to production) is likely to be  
20 completed at a total cost not in excess of the amount  
21 specified (or to be specified) for such purpose in the  
22 Selected Acquisition report for the Joint Strike  
23 Fighter aircraft program under section 2432 of title  
24 10, United States Code, for the first quarter of the

1       fiscal year during which the report of the Comp-  
2       troller General is submitted.

3       (c) REQUIREMENT TO SUPPORT ANNUAL GAO RE-  
4 VIEW.—The Secretary of Defense and the prime con-  
5 tractor for the Joint Strike Fighter aircraft program shall  
6 provide to the Comptroller General such information on  
7 that program as the Comptroller General considers nec-  
8 essary to carry out the responsibilities of the Comptroller  
9 General under this section, including such information as  
10 is necessary for the purposes of subsection (b)(3).

11       (d) TERMINATION.—No report is required under this  
12 section after the report that, under subsection (a), is re-  
13 quired to be submitted not later than March 15, 2009.

14 **SEC. 214. AMOUNTS FOR UNITED STATES JOINT FORCES**  
15 **COMMAND TO BE DERIVED ONLY FROM DE-**  
16 **FENSE-WIDE AMOUNTS.**

17       (a) IN GENERAL.—Chapter 9 of title 10, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing new section:

20 **“§ 232. United States Joint Forces Command:**  
21 **amounts for research, development, test,**  
22 **and evaluation to be derived only from**  
23 **Defense-wide amounts**

24       “(a) REQUIREMENT.—Amounts for research, devel-  
25 opment, test, and evaluation for the United States Joint

1 Forces Command shall be derived only from amounts  
 2 made available to the Department of Defense for Defense-  
 3 wide research, development, test, and evaluation.

4 “(b) SEPARATE DISPLAY IN BUDGET.—Any amount  
 5 in the budget submitted to Congress under section 1105  
 6 of title 31 for any fiscal year for research, development,  
 7 test, and evaluation for the United States Joint Forces  
 8 Command shall be set forth under the account of the De-  
 9 partment of Defense for Defense-wide research, develop-  
 10 ment, test, and evaluation.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
 12 at the beginning of such chapter is amended by adding  
 13 at the end the following new item:

“232. United States Joint Forces Command: amounts for research, develop-  
 ment, test, and evaluation to be derived only from Defense-  
 wide amounts.”.

14 **SEC. 215. SPACE BASED RADAR.**

15 (a) LIMITATION.—In carrying out the Space Based  
 16 Radar program, the Secretary of Defense may not author-  
 17 ize that program to proceed into the system development  
 18 and procurement phase referred to as Milestone B until  
 19 the Secretary—

20 (1) submits to the congressional defense com-  
 21 mittees, the Permanent Select Committee on Intel-  
 22 ligence of the House of Representatives, and the Se-  
 23 lect Committee on Intelligence of the Senate a re-  
 24 port described in subsection (b); and

1           (2) a period of 30 days has elapsed after the  
2       date on which such report is submitted.

3       (b) REPORT.—A report under this subsection is a re-  
4       port on the Space Based Radar program in which the Sec-  
5       retary of Defense sets forth the following with respect to  
6       that program:

7           (1) A description of the technical system con-  
8       cept selected.

9           (2) A description of the concept of operations  
10       associated with the technical system concept se-  
11       lected.

12          (3) An independent cost estimate for develop-  
13       ment and procurement under the program.

14          (4) The acquisition strategy for the program.

15 **SEC. 216. MARK-54 TORPEDO PRODUCT IMPROVEMENT**  
16 **PROGRAM.**

17       Of the amount provided in section 201 for research,  
18       development, test, and evaluation for the Navy,  
19       \$2,000,000 within the budget line designated as line 120  
20       shall be available for the Mark-54 Torpedo Product Im-  
21       provement Program.



1           **Subtitle C—Ballistic Missile**  
2                           **Defense**

3   **SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPA-**  
4                           **BILITIES.**

5           (a) **AUTHORITY.**—Funds described in subsection (b)  
6 may, upon approval by the Secretary of Defense, be used  
7 for the development and fielding of ballistic missile defense  
8 capabilities.

9           (b) **COVERED FUNDS.**—Subsection (a) applies to  
10 funds appropriated for fiscal year 2005 or fiscal year 2006  
11 for research, development, test, and evaluation for the  
12 Missile Defense Agency.

13           **TITLE III—OPERATION AND**  
14                           **MAINTENANCE**

15           **Subtitle A—Authorization of**  
16                           **Appropriations**

17   **SECTION 301. OPERATION AND MAINTENANCE FUNDING.**

18           Funds are hereby authorized to be appropriated for  
19 fiscal year 2005 for the use of the Armed Forces and other  
20 activities and agencies of the Department of Defense for  
21 expenses, not otherwise provided for, for operation and  
22 maintenance, in amounts as follows:

23                   (1) For the Army, \$25,838,611,000.

24                   (2) For the Navy, \$29,523,490,000.

25                   (3) For the Marine Corps, \$3,637,615,000.

1           (4) For the Air Force, \$27,143,566,000.

2           (5)       For       Defense-wide       activities,  
3     \$17,317,406,000.

4           (6) For the Army Reserve, \$2,003,728,000.

5           (7) For the Naval Reserve, \$1,240,038,000.

6           (8)   For   the   Marine   Corps   Reserve,  
7     \$188,696,000

8           (9) For the Air Force Reserve, \$2,226,790,000

9           (10)   For   the   Army   National   Guard,  
10    \$4,425,686,000.

11          (11)   For   the   Air   National   Guard,  
12    \$4,448,938,000.

13          (12) For the United States Court of Appeals  
14    for the Armed Forces, \$10,825,000.

15          (13) For Environmental Restoration, Army,  
16    \$400,948,000.

17          (14) For Environmental Restoration, Navy,  
18    \$266,820,000.

19          (15) For Environmental Restoration, Air Force,  
20    \$397,368,000.

21          (16) For Environmental Restoration, Defense-  
22    wide, \$23,684,000

23          (17) For Environmental Restoration, Formerly  
24    Used Defense Sites, \$216,516,000.

1           (18) For Overseas Humanitarian, Disaster, and  
2       Civic Aid programs, \$59,000,000.

3           (19) For Cooperative Threat Reduction pro-  
4       grams, \$409,200,000.

5           (20) For the Overseas Contingency Operations  
6       Transfer Fund, \$5,000,000.

7           (21) For the Defense Industrial Base Capabili-  
8       ties Fund, \$50,000,000

9   **SEC. 302. WORKING CAPITAL FUNDS.**

10       Funds are hereby authorized to be appropriated for  
11   fiscal year 2005 for the use of the Armed Forces and other  
12   activities and agencies of the Department of Defense for  
13   providing capital for working capital and revolving funds  
14   in amounts as follows:

15           (1) For the Defense Working Capital Funds,  
16       \$372,886,000.

17           (2) For the National Defense Sealift Fund,  
18       \$1,219,252,000.

19           (3) For the Defense Working Capital Fund,  
20       Defense Commissary, \$1,175,000,000

21   **SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.**

22       (a) DEFENSE HEALTH PROGRAM.—Funds are here-  
23   by authorized to be appropriated for the Department of  
24   Defense for fiscal year 2005 for expenses, not otherwise

1 provided for, for the Defense Health Program,  
2 \$17,811,586,000, of which—

3 (1) \$17,374,544,000 is for Operation and  
4 Maintenance;

5 (2) \$72,407,000 is for Research, Development,  
6 Test, and Evaluation; and

7 (3) \$364,635,000 is for Procurement.

8 (b) CHEMICAL AGENTS AND MUNITIONS DESTRUC-  
9 TION, DEFENSE.—(1) Funds are hereby authorized to be  
10 appropriated for the Department of Defense for fiscal year  
11 2005 for expenses, not otherwise provided for, for Chem-  
12 ical Agents and Munitions Destruction, Defense,  
13 \$1,371,990,000, of which—

14 (A) \$1,138,801,000 is for Operation and Main-  
15 tenance;

16 (B) \$154,209,000 is for Research, Develop-  
17 ment, Test, and Evaluation; and

18 (C) \$78,980,000 is for Procurement.

19 (2) Amounts authorized to be appropriated under  
20 paragraph (1) are authorized for—

21 (A) the destruction of lethal chemical agents  
22 and munitions in accordance with section 1412 of  
23 the Department of Defense Authorization Act, 1986  
24 (50 U.S.C. 1521); and

1 (B) the destruction of chemical warfare mate-  
2 riel of the United States that is not covered by sec-  
3 tion 1412 of such Act.

4 (c) DRUG INTERDICTION AND COUNTER-DRUG AC-  
5 TIVITIES, DEFENSE-WIDE.—Funds are hereby authorized  
6 to be appropriated for the Department of Defense for fis-  
7 cal year 2005 for expenses, not otherwise provided for, for  
8 Drug Interdiction and Counter-Drug Activities, Defense-  
9 wide, \$852,697,000.

10 (d) DEFENSE INSPECTOR GENERAL.—Funds are  
11 hereby authorized to be appropriated for the Department  
12 of Defense for fiscal year 2005 for expenses, not otherwise  
13 provided for, for the Office of the Inspector General of  
14 the Department of Defense, \$193,562,000, of which—

15 (1) \$191,362,000 is for Operation and Mainte-  
16 nance;

17 (2) \$2,100,000 is for Research, Development,  
18 Test, and Evaluation; and

19 (3) \$100,000 is for Procurement.

20 **SEC. 304. REIMBURSEMENT OF MEMBERS OF THE ARMED**  
21 **FORCES WHO PURCHASED PROTECTIVE**  
22 **BODY ARMOR DURING SHORTAGE OF DE-**  
23 **FENSE STOCKS OF BODY ARMOR.**

24 (a) REIMBURSEMENT AUTHORIZED.—The Secretary  
25 of Defense may reimburse a member of the Armed Forces

1 for the cost of protective body armor purchased by the  
2 member, or by another person on behalf of the member,  
3 for use by the member while deployed in connection with  
4 Operation Noble Eagle, Operation Enduring Freedom, or  
5 Operation Iraqi Freedom if the member was not issued  
6 protective body armor before the member became engaged  
7 in operations in areas or situations described in section  
8 310(a)(2) of title 37, United States Code.

9 (b) DURATION OF AUTHORITY.—Reimbursement  
10 may be provided under subsection (a) for protective body  
11 armor purchased during the period beginning on Sep-  
12 tember 11, 2001, and ending on December 31, 2003. Not  
13 later than 60 days after the date of the enactment of this  
14 Act, the Secretary shall implement regulations to expedite  
15 the provision of such reimbursement.

16 **SEC. 305. REDUCTION IN AUTHORIZATION FOR AIR FORCE**  
17 **OPERATIONS AND MAINTENANCE.**

18 The amount authorized to be appropriated in section  
19 301(4) is hereby reduced by \$10,000,000, to be derived  
20 from the transportation working capital fund.

1 **SEC. 306. ELIMINATION OF BACKLOG IN PROCESSING FO-**  
2 **RENSIC EVIDENCE COLLECTION KITS AND**  
3 **ACQUISITION OF SUFFICIENT STOCKS OF**  
4 **SUCH KITS.**

5 The Secretary of Defense shall take such steps as  
6 may be necessary to eliminate the current backlog in the  
7 processing of forensic evidence collection kits used by the  
8 Department of Defense, to shorten the time period be-  
9 tween the use of such kits and their processing in the fu-  
10 ture, and to ensure an adequate supply of such kits for  
11 all domestic and overseas United States military installa-  
12 tions, including the military service academies, and for  
13 units of the Armed Forces deployed in theaters of oper-  
14 ation.

15 **Subtitle B—Environmental**  
16 **Provisions**

17 **SEC. 311. REPORT REGARDING ENCROACHMENT ISSUES**  
18 **AFFECTING UTAH TEST AND TRAINING**  
19 **RANGE, UTAH.**

20 (a) REPORT REQUIRED.—The Secretary of the Air  
21 Force shall prepare a report that outlines current and an-  
22 ticipated encroachments on the use and utility of the spe-  
23 cial use airspace of the Utah Test and Training Range  
24 in the State of Utah, including encroachments brought  
25 about through actions of other Federal agencies. The Sec-  
26 retary shall include such recommendations as the Sec-

1   retary considers appropriate regarding any legislative ini-  
 2   tiatives necessary to address encroachment problems iden-  
 3   tified by the Secretary in the report.

4       (b) SUBMISSION OF REPORT.—Not later than one  
 5   year after the date of the enactment of this Act, the Sec-  
 6   retary shall submit the report to the Committee on Armed  
 7   Services of the House of Representatives and the Com-  
 8   mittee on Armed Services of the Senate.

## 9       **Subtitle C—Workplace and Depot** 10                                   **Issues**

### 11   **SEC. 321. SIMPLIFICATION OF ANNUAL REPORTING RE-** 12                                   **QUIREMENTS CONCERNING FUNDS EX-** 13                                   **PENDED FOR DEPOT MAINTENANCE AND RE-** 14                                   **PAIR WORKLOADS.**

15       Subsection (d) of section 2466 of title 10, United  
 16   States Code, is amended to read as follows:

17       “(d) ANNUAL REPORT AND REVIEW.—(1) Not later  
 18   than April 1 of each year, the Secretary of Defense shall  
 19   submit to Congress a report identifying, for each of the  
 20   armed forces (other than the Coast Guard) and each De-  
 21   fense Agency, the percentage of the funds referred to in  
 22   subsection (a) that was expended during the preceding fis-  
 23   cal year, and are projected to be expended in the current  
 24   fiscal year and next fiscal year, for performance of depot-



1 level maintenance and repair workloads by the public and  
 2 private sectors.

3 “(2) Not later than 60 days after the date on which  
 4 the Secretary submits a report under paragraph (1), the  
 5 Comptroller General shall submit to Congress the Comp-  
 6 troller General’s views on whether—

7 “(A) the Department of Defense has complied  
 8 with the requirements of subsection (a) during the  
 9 preceding fiscal year covered by the report; and

10 “(B) the expenditure projections for the current  
 11 fiscal year and next fiscal year are reasonable.”.

12 **SEC. 322. REPEAL OF ANNUAL REPORTING REQUIREMENT**  
 13 **CONCERNING MANAGEMENT OF DEPOT EM-**  
 14 **PLOYEES.**

15 (a) REPEAL.—Section 2472 of title 10, United States  
 16 Code, is amended—

17 (1) by striking “(a) PROHIBITION ON MANAGE-  
 18 MENT BY END STRENGTH.—”; and

19 (2) by striking subsection (b).

20 (b) CLERICAL AMENDMENTS.—(1) The heading of  
 21 such section is amended to read as follows:

1 **“§ 2472. Prohibition on management of depot employ-**  
 2 **ees by end strength”.**

3 (2) The table of sections at the beginning of chapter  
 4 146 of such title is amended by striking the item relating  
 5 to section 2472 and inserting the following new item:

“2472. Prohibition on management of depot employees by end strength.”.

6 **SEC. 323. PUBLIC-PRIVATE COMPETITION FOR WORK PER-**  
 7 **FORMED BY CIVILIAN EMPLOYEES OF DE-**  
 8 **PARTMENT OF DEFENSE.**

9 (a) IN GENERAL.—Section 2461(b) of title 10,  
 10 United States Code, is amended by adding at the end the  
 11 following new paragraph:

12 “(5)(A) A function of the Department of Defense  
 13 performed by 10 or more civilian employees may not be  
 14 converted, in whole or in part, to performance by a con-  
 15 tractor unless, the conversion is based on the results of  
 16 a public-private competition process that—

17 “(i) formally compares the cost of civilian em-  
 18 ployee performance of the function with the costs of  
 19 performance by a contractor;

20 “(ii) creates an agency tender, including a most  
 21 efficient organization plan, in accordance with Office  
 22 of Management and Budget Circular A–76, as im-  
 23 plemented on May 29, 2003;

24 “(iii) determines whether the submitted offers  
 25 meet the needs of the Department of Defense with

1       respect to factors other than cost, including quality  
2       and reliability;

3               “(iv) requires continued performance of the  
4       function by civilian employees if the cost of perform-  
5       ance of the function by a contractor would, over all  
6       performance periods required by the solicitation, cost  
7       less than—

8               “(I) 10 percent of the personnel-related  
9       costs for performance of that activity or func-  
10      tion in the agency tender; or

11              “(II) \$10,000,000; and

12              “(v) provides no advantage to an offeror for a  
13      proposal to reduce costs for the Department of De-  
14      fense by—

15              “(I) not making an employer-sponsored  
16      health insurance plan available to the workers  
17      who are to be employed in the performance of  
18      such function under a contract; or

19              “(II) offering to such workers an em-  
20      ployer-sponsored health benefits plan that re-  
21      quires the employer to contribute less towards  
22      the premium or subscription share than that  
23      which is paid by the Department of Defense for  
24      health benefits for civilian employees under  
25      chapter 89 of title 5.

1       “(B) Any modification, reorganization, division, or  
2 other change in the organization of a function of the De-  
3 partment of Defense so that is performed by less than 10  
4 civilian employees of the Department of Defense and,  
5 therefore, excluded from subparagraph (A), is prohibited.

6       “(C) Any function that is performed by civilian em-  
7 ployees of the Department of Defense and is proposed to  
8 be reengineered, reorganized, modernized, upgraded, ex-  
9 panded, or changed in order to become more efficient, but  
10 the civilian employees would still provide essentially the  
11 same service, is subject to the competition requirement in  
12 subparagraph (A).

13       “(D) The cost savings requirement specified in sub-  
14 paragraph (A) does not apply to any contracts for special  
15 studies and analyses, construction services, architectural  
16 services, medical services, scientific and technical services  
17 related to (but not in support of) research and develop-  
18 ment, and depot-level maintenance and repair services.

19       “(E) The Secretary of Defense may waive the com-  
20 petition requirement in specific instances if—

21               “(i) the written waiver is prepared by the Sec-  
22 retary of Defense, or the relevant Assistant Sec-  
23 retary or agency head;

24               “(ii) the written waiver is accompanied by a de-  
25 tailed determination that national security interests

1 are so compelling as to preclude compliance with the  
2 requirement for a public-private competition; and

3 “(iii) a copy of the waiver is published in the  
4 Federal Register within 10 working days after the  
5 date on which the waiver is invoked, although use of  
6 the waiver need not be delayed until its publica-  
7 tion.”.

8 (b) RELATION TO PILOT PROGRAM.—Paragraph (5)  
9 of section 2461(b) of title 10, United States Code, as  
10 added by subsection (a) shall not apply with respect to  
11 the pilot program for best-value source selection for per-  
12 formance of information technology services authorized by  
13 section 336 of the National Defense Authorization Act for  
14 Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444;  
15 10 U.S.C. 2461 note).

16 **SEC. 324. PUBLIC-PRIVATE COMPETITION PILOT PROGRAM.**

17 (a) PURPOSE.—The Secretary of Defense shall estab-  
18 lish a pilot program to examine the use of the public-pri-  
19 vate competition process of Office of Management and  
20 Budget Circular A–76 on new requirements, as defined  
21 by such Circular, and functions currently being performed  
22 by contractors that could be performed by civilian employ-  
23 ees.

1 (b) DURATION.—The Secretary of Defense shall  
2 carry out the pilot program during fiscal years 2005 and  
3 2006.

4 (c) REQUIREMENT FOR PUBLIC-PRIVATE COMPETI-  
5 TION FOR NEW WORK.—(1) By the end of the pilot  
6 project, the Secretary of Defense shall have allowed civil-  
7 ian employees to compete through the standard competi-  
8 tion process of Office of Management and Budget Circular  
9 A-76 for new requirements, as defined by such Circular,  
10 that are approximately one-tenth in value of the funds  
11 spent by the Department of Defense during the two fiscal  
12 years of the pilot project on all functions that are consid-  
13 ered new requirements, as defined by such Circular.

14 (2) The Department of Defense shall not receive  
15 credit towards compliance with the pilot program for sub-  
16 jecting to public-private competition—

17 (A) any contract to be awarded to small busi-  
18 ness concerns that meet the requirements under sec-  
19 tion 3(a) of the Small Business Act (15 U.S.C.  
20 632(a)) and regulations under that section;

21 (B) any contract to be performed by contractor  
22 employees who are represented by a private sector  
23 labor union; or

24 (C) any contract related to special studies and  
25 analyses, construction services, architectural serv-

1       ices, medical services, scientific and technical serv-  
2       ices related to (but not in support of) research and  
3       development, and depot-level maintenance and repair  
4       services.

5       (d) FUNCTIONS PERFORMED BY CONTRACTORS.—(1)

6   By the end of the pilot project, the Secretary of Defense  
7   shall have subjected a number of contractor employees to  
8   public-private competition through the standard competi-  
9   tion process of Office of Management and Budget Circular  
10  A-76 that is approximately one-tenth of the number of  
11  civilian employees subject to public-private competition  
12  during the two fiscal years of the pilot project.

13       (2) The Department of Defense shall, to the extent  
14   possible, subject to public-private competition those posi-  
15   tions held by contractor employees that are associated  
16   with functions that are or have been performed at least  
17   in part by Federal employees at any time on or after Octo-  
18   ber 1, 1980; and

19       (3) Subsection (c)(2) shall also apply to this sub-  
20   section.

21       (e) WAIVER.—The implementation of the pilot  
22   project may be waived if—

23               (1) the written waiver is prepared by the Sec-  
24   retary of Defense;

1           (2) the written waiver is accompanied by a de-  
2           tailed determination that national security interests  
3           are so compelling as to preclude compliance with the  
4           competition requirement; and

5           (3) a copy of the waiver is published in the  
6           Federal Register within 10 working days after the  
7           date on which the waiver is invoked, although use of  
8           the waiver need not be delayed until its publication.

9           (f) REPORT.—At the end of each fiscal year of the  
10          pilot program, the Inspector General of the Department  
11          of Defense shall submit to Congress a report on the results  
12          of the pilot program, including the extent to which the  
13          Department of Defense complied with the requirements of  
14          this section.

15       **SEC. 325. SENSE OF CONGRESS ON EQUITABLE LEGAL**  
16                               **STANDING FOR CIVILIAN EMPLOYEES.**

17          It is the sense of Congress that, in order to ensure  
18          that, when public-private competitions are held, they are  
19          conducted as fairly, effectively, and efficiently as possible,  
20          competing parties, both Department of Defense civilian  
21          employees (or their representatives) and contractors (or  
22          their representatives) should receive comparable treatment  
23          throughout the competition regarding access to relevant  
24          information and legal standing to challenge the way a  
25          competition has been conducted at all appropriate forums,



1 including the General Accounting Office and the United  
2 States Court of Federal Claims.

3 **SEC. 326. COMPETITIVE SOURCING REPORTING REQUIRE-**  
4 **MENT.**

5 (a) REPORT REQUIRED.—Not later than February 1,  
6 2005, the Inspector General of the Department of Defense  
7 shall submit to Congress a report addressing whether the  
8 Department of Defense—

9 (1) employs a sufficient number of adequately  
10 trained civilian employees to conduct satisfactorily,  
11 taking into account equity, efficiency and expedi-  
12 tiousness, all of the public-private competitions that  
13 are scheduled to be undertaken by the Department  
14 of Defense during the next fiscal year (including a  
15 sufficient number of employees to formulate satisfac-  
16 torily the performance work statements and most ef-  
17 ficient organization plans for the purposes of such  
18 competitions) and to administer any resulting con-  
19 tracts; and

20 (2) has implemented a comprehensive and reli-  
21 able system to track and assess the cost and quality  
22 of the performance of functions of the Department  
23 of Defense by service contractors, to update the  
24 records of such costs and the assessments each fiscal  
25 quarter, and to make such information available in

1 reports to Congress and the public, including  
2 through the use of electronic means, except that pro-  
3 prietary information and information to which sec-  
4 tion 552(b)(1) of title 5, United States Code, applies  
5 shall be excised from information published or re-  
6 ports made available.

7 (b) ELEMENTS OF TRACKING SYSTEM.—The system  
8 of the Department of Defense for tracking cost and qual-  
9 ity of performance of a function under a service contract  
10 shall include at least the following data elements:

11 (1) The contract number and the applicable  
12 Federal supply class or service code.

13 (2) The name, business address, and business  
14 telephone of the agency official who supervises the  
15 service contract.

16 (3) The statutory, regulatory, or other author-  
17 ity for entering into the service contract and, if a  
18 public-private competition was not used in the deter-  
19 mination of whether to provide for performance of  
20 the activity or function by a contractor, an expla-  
21 nation of the reasons for not doing so.

22 (4) The cost to the Department of Defense of  
23 conducting the public-private competition under Of-  
24 fice of Management and Budget Circular A-76, if

1       one was undertaken, including the cost of consult-  
2       ants as well as civilian employees.

3           (5) In the case of a function formerly per-  
4       formed by civilian employees, the actual cost of the  
5       performance by such employees.

6           (6) The cost to the Department of Defense of  
7       civilian employee performance of the function under  
8       the most efficient organization plan.

9           (7) The anticipated cost of contractor perform-  
10      ance, based on the award.

11          (8) The cost to the Department of Defense for  
12      performance of the function by the contractor.

13          (9) A description of the quality control process  
14      used by the agency in connection with monitoring  
15      the contract performance (including the applicable  
16      quality control standards and the frequency of the  
17      quality control reports), together with an assessment  
18      of whether the contractor achieved, exceeded, or  
19      failed to achieve the quality control standards.

20      (c) ASSESSMENT OF TRACKING SYSTEM.—The In-  
21      specter General of the Department of Defense shall in-  
22      clude in the report required by subsection (a) an assess-  
23      ment of the comprehensiveness and reliability of the De-  
24      partment of Defense system for tracking cost and quality  
25      of performance of a function under a service contract, in-

cluding compliance with each of the requirements specified in subsection (b). The Inspector General shall base the assessment on an audit of a representative sample of service contracts. The report shall also include recommendations by the Inspector General regarding how weaknesses identified in the Department of Defense infrastructure for competitive sourcing can be rectified, whether through the use of different processes or the availability of additional employees, additional training, or additional resources.

## **Subtitle D—Information Technology**

### **SEC. 331. PREPARATION OF DEPARTMENT OF DEFENSE PLAN FOR TRANSITION TO INTERNET PRO- TOCOL VERSION 6.**

(a) TRANSITION PLAN.—The Secretary of Defense shall prepare a plan to provide for the transition of Department of Defense information technology systems to Internet Protocol version 6 from the present use of Internet Protocol version 4 and other network protocols. The plan shall outline the networking and security system equipment that will need to be replaced, including the timing and costs of such replacement, address how the current and new networks and security systems will be managed, and assess the potential impact of the transition, include any proposed measures to alleviate any adverse af-

fects. In preparing the transition plan, the Secretary shall compare private industry plans for the transition to Internet Protocol version 6.

(b) TESTING AND EVALUATION FOR INTERNET PROTOCOL.—To determine whether a change to the use of Internet Protocol version 6 will support Department of Defense requirements, the Secretary of Defense shall provide for a rigorous, real-world end-to-end testing of Internet Protocol version 6, as proposed for use by the Department, to evaluate the following:

(1) The ability of Internet Protocol version 6, with its “best effort” quality of service, to satisfactorily support the Department’s multiple applications and other information technology systems, including the use of Internet Protocol version 6 over bandwidth-constrained tactical circuits.

(2) The ability of the Department’s networks using Internet Protocol version 6 to respond to, and perform under, heavy loading of the core networks.

(c) SUBMISSION OF PLAN AND RESULTS.—Not later than March 31, 2005, the Secretary of Defense shall submit to the congressional defense committees a report containing the transition plan prepared under subsection (a) and the results of the tests conducted under subsection (b).

1 **SEC. 332. DEFENSE BUSINESS ENTERPRISE ARCHITEC-**  
2 **TURE, SYSTEM ACCOUNTABILITY, AND CON-**  
3 **DITIONS FOR OBLIGATION OF FUNDS FOR**  
4 **DEFENSE BUSINESS SYSTEM MODERNIZA-**  
5 **TION.**

6 (a) IN GENERAL.—(1) Chapter 131 of title 10,  
7 United States Code, is amended by inserting before sec-  
8 tion 2223 the following new section:

9 **“§ 2222. Defense business systems: architecture, ac-**  
10 **countability, and modernization**

11 “(a) CONDITIONS FOR OBLIGATION OF FUNDS FOR  
12 DEFENSE BUSINESS SYSTEM MODERNIZATION.—Effec-  
13 tive January 1, 2005, funds appropriated to the Depart-  
14 ment of Defense may not be obligated for a defense busi-  
15 ness system modernization that will have a total cost in  
16 excess of \$1,000,000 unless—

17 “(1) the approval authority designated for the  
18 defense business system certifies to the Defense  
19 Business Systems Management Committee estab-  
20 lished by section 186 of this title that the defense  
21 business system modernization—

22 “(A) is in compliance with the enterprise  
23 architecture developed under subsection (b), or  
24 such compliance is waived in writing by the ap-  
25 proval authority as a result of the investment  
26 review process conducted under subsection (d)

1           for the defense business system modernization;  
2           and

3           “(B) will be acquired or developed in a  
4           manner consistent with the system acquisition  
5           regulations and instructions of the Department  
6           of Defense; and

7           “(2) the Defense Business Systems Manage-  
8           ment Committee approves the certification by the  
9           approval authority.

10          “(b) ENTERPRISE ARCHITECTURE FOR DEFENSE  
11 BUSINESS SYSTEMS.—Not later than September 30,  
12 2005, the Secretary of Defense, acting through the De-  
13 fense Business Systems Management Committee, shall  
14 develop—

15           “(1) an enterprise architecture to cover all de-  
16 fense business systems, and the functions and activi-  
17 ties supported by defense business systems, which  
18 shall be sufficiently defined to effectively guide, con-  
19 strain, and permit implementation of interoperable  
20 defense business system solutions and consistent  
21 with the policies and procedures established by the  
22 Director of the Office of Management and Budget,  
23 and

24           “(2) a transition plan for implementing the en-  
25 terprise architecture for defense business systems.

1       “(c) APPROVAL AUTHORITIES AND ACCOUNTABILITY  
2 FOR DEFENSE BUSINESS SYSTEMS.—The Secretary of  
3 Defense shall delegate responsibility for the planning, de-  
4 sign, acquisition, deployment, operation, maintenance,  
5 modernization, and oversight of defense business systems  
6 as follows:

7           “(1) The Under Secretary of Defense for Ac-  
8 quisition, Technology and Logistics shall be respon-  
9 sible and accountable for any defense business sys-  
10 tem the primary purpose of which is to support ac-  
11 quisition activities, logistics activities, or installa-  
12 tions and environment activities of the Department  
13 of Defense.

14          “(2) The Under Secretary of Defense (Comp-  
15 troller) shall be responsible and accountable for any  
16 defense business system the primary purpose of  
17 which is to support financial management activities  
18 or strategic planning and budgeting activities of the  
19 Department of Defense.

20          “(3) The Under Secretary of Defense for Per-  
21 sonnel and Readiness shall be responsible and ac-  
22 countable for any defense business system the pri-  
23 mary purpose of which is to support human resource  
24 management activities of the Department of De-  
25 fense.



1           “(4) The Assistant Secretary of Defense for  
2       Networks and Information Integration and the Chief  
3       Information Officer of the Department of Defense  
4       shall be responsible and accountable for any defense  
5       business system the primary purpose of which is to  
6       support information technology infrastructure or in-  
7       formation assurance activities of the Department of  
8       Defense.

9           “(5) The Deputy Secretary of Defense or an  
10      Under Secretary of Defense, as designated by the  
11      Secretary of Defense, shall be responsible for any  
12      defense business system the primary purpose of  
13      which is to support any activity of the Department  
14      of Defense not covered by paragraphs (1) through  
15      (4).

16      “(d) DEFENSE BUSINESS SYSTEM INVESTMENT RE-  
17      VIEW.—(1) The Secretary of Defense shall require each  
18      approval authority designated under subsection (c) to es-  
19      tablish, not later than March 15, 2005, an investment re-  
20      view process, consistent with section 11312 of title 40, to  
21      review the planning, design, acquisition, development, de-  
22      ployment, operation, maintenance, modernization, and  
23      project cost benefits and risks of all defense business sys-  
24      tems for which the approval authority is responsible. The  
25      investment review process so established shall specifically

1 address the responsibilities of approval authorities under  
2 subsection (a).

3 “(2) The review of defense business systems under  
4 the investment review process shall include the following:

5 “(A) Review and approval by an investment re-  
6 view board of each defense business system as an in-  
7 vestment before the obligation of funds on the sys-  
8 tem.

9 “(B) Periodic review, but not less than annu-  
10 ally, of every defense business system investment.

11 “(C) Representation on each investment review  
12 board by appropriate officials from among the armed  
13 forces, combatant commands, the Joint Chiefs of  
14 Staff, and Defense Agencies.

15 “(D) Use of threshold criteria to ensure an ap-  
16 propriate level of review within the Department of  
17 Defense of, and accountability for, defense business  
18 system investments depending on scope, complexity,  
19 and cost.

20 “(e) BUDGET INFORMATION.—In the materials that  
21 the Secretary submits to Congress in support of the budg-  
22 et submitted by the President to Congress under section  
23 1105 of title 31 for fiscal year 2006 and fiscal years there-  
24 after, the Secretary of Defense shall—

1           “(1) identify the approval authority for each de-  
2       fense business system; and

3           “(2) for each defense business system for which  
4       funding is proposed in the budget—

5           “(A) certify that the defense business sys-  
6       tem complies with the defense business enter-  
7       prise architecture; or

8           “(B) explain why funds for such system  
9       are necessary to maintain a mission critical or  
10      mission essential system of the Department of  
11      Defense, notwithstanding its noncompliance  
12      with the defense business enterprise architec-  
13      ture.

14       “(f) CONGRESSIONAL REPORTS.—Not later than  
15   March 15 of each year from 2005 through 2009, the Sec-  
16   retary of Defense shall submit to the congressional defense  
17   committees a report on Department of Defense compliance  
18   with the requirements of this section. The first report shall  
19   define plans and commitments for meeting the require-  
20   ments of subsection (a), including specific milestones and  
21   performance measures. Subsequent reports shall—

22           “(1) describe actions taken and planned for  
23      meeting the requirements of subsection (a),  
24      including—

1           “(A) specific milestones and actual per-  
2           formance against specified performance meas-  
3           ures, and any revision of such milestones and  
4           performance measures; and

5           “(B) specific actions on the defense busi-  
6           ness system modernizations submitted for cer-  
7           tification under such subsection;

8           “(2) identify the number of defense business  
9           system modernizations so certified;

10          “(3) identify any defense business system mod-  
11          ernization with an obligation in excess of \$1,000,000  
12          during the preceding fiscal year that was not cer-  
13          tified under subsection (a), and the reasons for the  
14          waiver; and

15          “(4) discuss specific improvements in business  
16          operations and cost savings resulting from successful  
17          defense business systems modernization efforts.

18          “(g) DEFINITIONS.—In this section:

19               “(1) The term ‘approval authority’, with respect  
20               to a defense business system, means the Department  
21               of Defense official responsible for the defense busi-  
22               ness system, as designated by subsection (c).

23               “(2) The term ‘defense business system’ means  
24               an information system, other than a national secu-  
25               rity system, operated by, for, or on behalf of the De-

1       partment of Defense, including financial systems,  
2       mixed systems, financial data feeder systems, and  
3       information technology and information assurance  
4       infrastructure, used to support business activities,  
5       such as acquisition, financial management, logistics,  
6       strategic planning and budgeting, installations and  
7       environment, and human resource management.

8               “(3) The term ‘defense business system mod-  
9       ernization’ means—

10                   “(A) the acquisition or development of a  
11                   new defense business system; or

12                   “(B) any significant modification or en-  
13                   hancement of an existing defense business sys-  
14                   tem (other than necessary to maintain current  
15                   services).

16               “(4) The term ‘enterprise architecture’ has the  
17       meaning given that term in section 3601(4) of title  
18       44.

19               “(5) The terms ‘information system’ and ‘infor-  
20       mation technology’ have the meanings given those  
21       terms in section 11101 of title 40.

22               “(6) The term ‘national security system’ has  
23       the meaning given that term in section 2315 of this  
24       title.”.

1       (2) The table of sections at the beginning of such  
 2 chapter is amended by inserting before the item relating  
 3 to section 2223 the following new item:

“2222. Defense business systems: architecture, accountability, and moderniza-  
 tion.”.

4       (b) DEFENSE BUSINESS SYSTEM MANAGEMENT  
 5 COMMITTEE.—Chapter 7 of such title is amended by add-  
 6 ing at the end the following new section:

7       **“§ 186. Defense business system management Com-**  
 8               **mittee**

9       “(a) ESTABLISHMENT.—The Secretary of Defense  
 10 shall establish a Defense Business Systems Management  
 11 Committee, to be composed of the following persons:

12               “(1) The Deputy Secretary of Defense, who  
 13 shall serve as the chairman of the Committee.

14               “(2) The Under Secretary of Defense for Ac-  
 15 quisition, Logistics, and Technology.

16               “(3) The Under Secretary of Defense for Per-  
 17 sonnel and Readiness.

18               “(4) The Under Secretary of Defense (Comp-  
 19 troller).

20               “(5) The Assistant Secretary of Defense for  
 21 Networks and Information Integration.

22               “(6) The Secretaries of the military depart-  
 23 ments and the heads of the Defense Agencies.

1           “(7) Such additional personnel of the Depart-  
2           ment of Defense (including personnel assigned to the  
3           Joint Chiefs of Staff and combatant commands) as  
4           are designated by the Secretary of Defense.

5           “(b) DUTIES.—(1) In addition to any other matters  
6           assigned to the Committee by the Secretary of Defense,  
7           the Committee shall—

8           “(A) recommend to the Secretary of Defense  
9           policies and procedures necessary to effectively inte-  
10          grate the requirements of section 2222 of this title  
11          into all business activities and any transformation,  
12          reform, reorganization, or process improvement ini-  
13          tiatives undertaken within the Department of De-  
14          fense; and

15          “(B) review and approve any major update of  
16          the defense business enterprise architecture devel-  
17          oped under subsection (b) of section 2222 of this  
18          title, including evolving the architecture, and of de-  
19          fense business systems modernization plans.

20          “(2) The Committee shall be responsible for coordi-  
21          nating defense business system modernization initiatives  
22          to maximize benefits and minimize costs for the Depart-  
23          ment of Defense and periodically report to the Secretary  
24          on the status of defense business system modernization  
25          efforts.

1       “(3) The Committee shall ensure that funds are obli-  
2 gated for defense business system modernization in a man-  
3 ner consistent with section 2222 of this title.

4       “(c) DEFINITIONS.—In this section, the terms ‘de-  
5 fense business system’ and ‘defense business system mod-  
6 ernization’ have the meanings given such terms in section  
7 2222 of this title.”.

8       (2) The table of sections at the beginning of such  
9 chapter is amended by adding at the end the following  
10 new item:

“186. Defense Business System Management Committee.”.

11       (c) DELEGATION OF ADMINISTRATIVE RESPONSIBI-  
12 LITY.—The delegation of responsibility for the planning,  
13 design, acquisition, deployment, operation, maintenance,  
14 modernization, and oversight of defense business systems  
15 required by subsection (c) of section 2222 of title 10,  
16 United States Code, as added by subsection (a)(1), shall  
17 be completed not later than 60 days after the date of the  
18 enactment of this Act.

19       (d) RELATION TO ANNUAL REGISTRATION REQUIRE-  
20 MENTS.—Nothing in sections 186 and 2222 of title 10,  
21 United States Code, as added by this section, shall be con-  
22 strued to alter the requirements of section 8084 of the  
23 Department of Defense Appropriations Act, 2004 (Public  
24 Law 108–87; 117 Stat. 1091), with regard to information



1 technology systems (as defined in subsection (d) of such  
2 section).

3 (e) REPEAL OF OBSOLETE FINANCIAL MANAGEMENT  
4 ENTERPRISE ARCHITECTURE REQUIREMENTS.—Section  
5 1004 of the Bob Stump National Defense Authorization  
6 Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C.  
7 113 note) is repealed.

8 **SEC. 333. ESTABLISHMENT OF JOINT PROGRAM OFFICE TO**  
9 **IMPROVE INTEROPERABILITY OF BATTLE-**  
10 **FIELD MANAGEMENT COMMAND AND CON-**  
11 **TROL SYSTEMS.**

12 (a) OFFICE FOR FAMILY OF INTEROPERABLE PIC-  
13 TURES.—The Secretary of Defense shall designate a single  
14 joint program office in the Department of Defense for the  
15 management of battlefield management command and  
16 control systems of the Armed Forces, known as the “Fam-  
17 ily of Interoperable Pictures”, to improve the interoper-  
18 ability of such systems so that members of the Armed  
19 Forces may access a common operational picture of the  
20 battlefield. The office shall include at a minimum the Sin-  
21 gle Integrated Air Picture, the Single Integrated Ground  
22 Picture, the Single Integrated Maritime Picture, the Spe-  
23 cial Operations Forces Picture, and the Single Integrated  
24 Space Picture. The Secretary shall provide for the head  
25 of the office to be selected on a rotating basis among re-

1 lated offices of the Army, Navy, Air Force, and Marine  
2 Corps.

3 (b) COMMON SYSTEMS ARCHITECTURE.—The Sec-  
4 retary of Defense shall develop, implement, and maintain  
5 a common systems architecture for all battlefield manage-  
6 ment command and control systems included in the Fam-  
7 ily of Interoperable Pictures.

8 (c) CONSOLIDATED PROGRAM ELEMENTS.—All  
9 funds for development and procurement related to the  
10 Family of Interoperable Pictures shall be consolidated  
11 under the office designated under subsection (a).

12 (d) PROGRAM DEVELOPMENT.—The head of the of-  
13 fice designated under subsection (a), subject to the author-  
14 ity, direction, and control of the Secretary of Defense,  
15 shall—

16 (1) establish and control the performance speci-  
17 fications for the battlefield management command  
18 and control systems included in the Family of Inter-  
19 operable Pictures;

20 (2) establish and control the standards for de-  
21 velopment of the software and equipment for the  
22 Family of Interoperable Pictures;

23 (3) establish and control the standards for op-  
24 eration of the Family of Interoperable Pictures; and

1           (4) develop a single, unified concept of oper-  
 2           ations for all users of the Family of Interoperable  
 3           Pictures.

## 4       **Subtitle E—Readiness Reporting** 5                               **Requirements**

### 6       **SEC. 341. ANNUAL REPORT ON DEPARTMENT OF DEFENSE** 7                               **OPERATION AND FINANCIAL SUPPORT FOR** 8                               **MILITARY MUSEUMS.**

9           (a) REPORT REQUIRED.—Chapter 23 of title 10,  
 10       United States Code, is amended by adding at the end the  
 11       following new section:

#### 12       **“§ 489. Annual report on Department of Defense oper-** 13                               **ation and financial support for military** 14                               **museums**

15       “(a) REPORT REQUIRED.—As part of the budget ma-  
 16       terials submitted to Congress in connection with the sub-  
 17       mission of the budget for a fiscal year pursuant to section  
 18       1105 of title 31, but in no case later than March 15 of  
 19       each year, the Secretary of Defense shall submit a report  
 20       identifying all museums that, during the preceding fiscal  
 21       year—

22               “(1) were operated by the Department of De-  
 23       fense or a military department; or

24               “(2) were otherwise supported using funds ap-  
 25       propriated to the Department of Defense.

1       “(b) CONTENT OF REPORT.—For each museum iden-  
2       tified in a report under this section, the Secretary of De-  
3       fense shall include in the report the following:

4               “(1) The purpose and functions of the museum  
5       and the justification for the museum

6               “(2) A description of the facilities dedicated to  
7       the museum.

8               “(3) An itemized listing of the funds appro-  
9       priated to the Department of Defense that were obli-  
10      gated to support the museum during the fiscal year  
11      covered by the report, as well as any other Federal  
12      funds, funds from a nonappropriated fund instru-  
13      mentality account of the Department of Defense,  
14      and non-Federal funds obligated to support the mu-  
15      seum.

16              “(4) The number of civilian employees of the  
17      Department of Defense who serve full-time or part-  
18      time at the museum.

19              “(5) The number of members of the armed  
20      forces who serve full-time or part-time at the mu-  
21      seum.”.

22      (b) CLERICAL AMENDMENT.—The table of sections  
23      at the beginning of such chapter is amended by adding  
24      at the end the following new item:

“489. Annual report on Department of Defense operation and financial support  
for military museums.”.

1 **SEC. 342. REPORT ON DEPARTMENT OF DEFENSE PRO-**  
2 **GRAMS FOR PREPOSITIONING OF MATERIAL**  
3 **AND EQUIPMENT.**

4 (a) SECRETARY OF DEFENSE ASSESSMENT AND RE-  
5 PORT.—(1) The Secretary of Defense shall conduct an as-  
6 sessment of the programs of the Department of Defense  
7 for the prepositioning of material and equipment. Such as-  
8 sessment shall particularly focus on how those programs  
9 will be incorporated into achievement of the goals of the  
10 Secretary of Defense (referred to as the “10–30–30”  
11 goals) for the Armed Forces to have the capability, from  
12 the onset of a contingency situation, of deploying forces  
13 to a distant theater within 10 days, defeating an enemy  
14 within 30 days, and being ready for an additional conflict  
15 within another 30 days.

16 (2) The Secretary shall submit to Congress a report  
17 on such assessment not later than October 1, 2005.

18 (b) MATTERS TO BE INCLUDED.—The assessment  
19 under subsection (a) shall include the prepositioning pro-  
20 grams of each of the Armed Forces and of the United  
21 States Special Operations Command as well as assessment  
22 of each of the following:

23 (1) Use of prepositioned equipment as part of  
24 Operation Iraqi Freedom and Operation Enduring  
25 Freedom and potential solutions to identified chal-  
26 lenges.

1           (2) Changes to doctrine, strategy, and transpor-  
 2           tation plans to support the goals of the Secretary  
 3           described in subsection (a) and referred to as the  
 4           10–30–30 goals in light of the current lift con-  
 5           straints facing both land and sea components of lift  
 6           as well as the emerging mobility requirements.

7           (3) Modifications of the prepositioning pro-  
 8           grams of the Armed Forces in order to adapt to  
 9           pending modularity concepts, future force structure  
 10          changes, and new sea basing concepts in relation to  
 11          current and potential areas of instability.

12          (4) Joint operations and training that include  
 13          theater opening requirements at potential aerial and  
 14          sea ports of debarkation, joint force reception capa-  
 15          bilities, joint theater distribution operations, and use  
 16          of joint prepositioned stocks and systems.

## 17           **Subtitle F—Other Matters**

### 18   **SEC. 351. EXTENSION OF ARSENAL SUPPORT PROGRAM INI-** 19           **TIATIVE.**

20          (a) DURATION OF PROGRAM.—Subsection (a) of sec-  
 21          tion 343 of the Floyd D. Spence National Defense Author-  
 22          ization Act for Fiscal Year 2001 (as enacted into law by  
 23          Public Law 106–398; 10 U.S.C. 4551 note) is amended  
 24          by striking “2004” and inserting “2008”.

1 (b) ADDITIONAL REPORT REQUIRED.—Subsection  
2 (g) of such section is amended—

3 (1) in paragraph (1), by striking “2004” and  
4 inserting “2008”; and

5 (2) in paragraph (2), by striking “2003” and  
6 inserting “2007”.

7 **SEC. 352. LIMITATION ON PREPARATION OR IMPLEMENTA-**  
8 **TION OF MID-RANGE FINANCIAL IMPROVE-**  
9 **MENT PLAN.**

10 Amounts appropriated to the Department of Defense  
11 for fiscal year 2005 for operation and maintenance may  
12 not be obligated for the purpose of preparing or imple-  
13 menting the Mid-Range Financial Improvement Plan until  
14 the Secretary of Defense submits a report to the congres-  
15 sional defense committees containing, for each of the mili-  
16 tary departments and the Defense Agencies—

17 (1) an explanation of the manner in which  
18 funds will be used for such purpose during that fis-  
19 cal year; and

20 (2) an estimate of the costs for future fiscal  
21 years to prepare and implement the plan.

1 **SEC. 353. PROCUREMENT OF FOLLOW-ON CONTRACTS FOR**  
2 **THE OPERATION OF FIVE CHAMPION-CLASS**  
3 **T-5 TANK VESSELS.**

4 The Secretary of the Navy may consider bids or pro-  
5 posals for the follow-on contracts for the Department of  
6 the Navy contracts for the operation of five Champion-  
7 class T-5 tank vessels only from an entity that is a citizen  
8 under section 2 of the Shipping Act, 1916 (46 App. U.S.C.  
9 802).

10 **SEC. 354. SENSE OF CONGRESS ON AMERICA'S NATIONAL**  
11 **WORLD WAR I MUSEUM.**

12 (a) FINDINGS.—The Congress finds as follows:

13 (1) The Liberty Memorial Museum in Kansas  
14 City, Missouri, was built in 1926 in honor of those  
15 individuals who served in World War I in defense of  
16 liberty and the Nation.

17 (2) The Liberty Memorial Association, a non-  
18 profit organization which originally built the Liberty  
19 Memorial Museum, is responsible for the finances,  
20 operations, and collections management of the Lib-  
21 erty Memorial Museum.

22 (3) The Liberty Memorial Museum is the only  
23 public museum in the Nation that exists for the ex-  
24 clusive purpose of interpreting the experiences of the  
25 United States and its allies in the World War I



1 years (1914–1918), both on the battlefield and on  
2 the home front.

3 (4) The Liberty Memorial Museum project  
4 began after the 1918 Armistice through the efforts  
5 of a large-scale, grass-roots civic and fundraising ef-  
6 fort by the citizens and veterans of the Kansas City  
7 metropolitan area. After the conclusion of a national  
8 architectural design competition, ground was broken  
9 in 1921, construction began in 1923, and the Lib-  
10 erty Memorial Museum was opened to the public in  
11 1926.

12 (5) In 1994, the Liberty Memorial Museum  
13 closed for a massive restoration and expansion  
14 project. The restored museum reopened to the public  
15 on Memorial Day, 2002, during a gala rededication  
16 ceremony.

17 (6) Exhibits prepared for the original museum  
18 buildings presaged the dramatic, underground ex-  
19 pansion of core exhibition gallery space, with over  
20 30,000 square feet of new interpretive and edu-  
21 cational exhibits currently in development. The new  
22 exhibits, along with an expanded research library  
23 and archives, will more fully utilize the many thou-  
24 sands of historical objects, books, maps, posters,  
25 photographs, diaries, letters, and reminiscences of

1 World War I participants that are preserved for pos-  
2 terity in the Liberty Memorial Museum's collections.  
3 The new core exhibition is scheduled to open on Vet-  
4 erans Day, 2006.

5 (7) The City of Kansas City, the State of Mis-  
6 souri, and thousands of private donors and philan-  
7 thropic foundations have contributed millions of dol-  
8 lars to build and later to restore this national treas-  
9 ure. The Liberty Memorial Museum continues to re-  
10 ceive the strong support of residents from the States  
11 of Missouri and Kansas and across the Nation.

12 (8) Since the restoration and rededication of  
13 2002, the Liberty Memorial Museum has attracted  
14 thousands of visitors from across the United States  
15 and many foreign countries.

16 (9) There remains a need to preserve in a mu-  
17 seum setting evidence of the honor, courage, patriot-  
18 ism, and sacrifice of those Americans who offered  
19 their services and who gave their lives in defense of  
20 liberty during World War I, evidence of the roles of  
21 women and African Americans during World War I,  
22 and evidence of other relevant subjects.

23 (10) The Liberty Memorial Museum seeks to  
24 educate a diverse group of audiences through its  
25 comprehensive collection of historical materials, em-

phasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the “Lessons of Liberty” to the Nation’s schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation’s museum of the national experience in the World War I years (1914–1918), where people go to learn about this critical period and where the Nation’s history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation’s sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

1           (14) It is fitting and proper to refer to the Lib-  
2       erty Memorial Museum as “America’s National  
3       World War I Museum”.

4       (b) SENSE OF CONGRESS.—The Congress—

5           (1) recognizes the Liberty Memorial Museum in  
6       Kansas City, Missouri, including the museum’s fu-  
7       ture and expanded exhibits, collections, library, ar-  
8       chives, and educational programs, as “America’s Na-  
9       tional World War I Museum”;

10          (2) recognizes that the continuing collection,  
11       preservation, and interpretation of the historical ob-  
12       jects and other historical materials held by the Lib-  
13       erty Memorial Museum enhance the knowledge and  
14       understanding of the Nation’s people of the Amer-  
15       ican and allied experience during the World War I  
16       years (1914–1918), both on the battlefield and on  
17       the home front;

18          (3) commends the ongoing development and vis-  
19       ibility of “Lessons of Liberty” educational outreach  
20       programs for teachers and students throughout the  
21       Nation; and

22          (4) encourages the need for present generations  
23       to understand the magnitude of World War I, how  
24       it shaped the Nation, other countries, and later  
25       world events, and how the sacrifices made then

1       helped preserve liberty, democracy, and other found-  
 2       ing principles for generations to come.

3                   **TITLE IV—MILITARY**  
 4       **PERSONNEL AUTHORIZATIONS**

5                   **Subtitle A—Active Forces**

6       **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

7       The Armed Forces are authorized strengths for active  
 8       duty personnel as of September 30, 2005, as follows:

9               (1) The Army, 482,400.

10              (2) The Navy, 365,900.

11              (3) The Marine Corps, 175,000.

12              (4) The Air Force, 359,700.

13       **SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END**  
 14                   **STRENGTH MINIMUM LEVELS.**

15       Effective October 1, 2004, section 691(b) of title 10,  
 16       United States Code, is amended as follows:

17              (1) NAVY.—Paragraph (2) is amended by strik-  
 18       ing “373,800” and inserting “365,900”.

19              (2) AIR FORCE.—Paragraph (4) is amended by  
 20       striking “359,300” and inserting “359,700”.

21       **SEC. 403. MAXIMUM NUMBER OF RESERVE PERSONNEL AU-**  
 22                   **THORIZED TO BE ON ACTIVE DUTY FOR**  
 23                   **OPERATIONAL SUPPORT.**

24       During fiscal year 2005, the maximum number of  
 25       members of the reserve components of the Armed Forces

1 who may be serving at any time on full-time operational  
 2 support duty under section 115(b) of title 10, United  
 3 States Code, is the following:

4 (1) The Army National Guard of the United  
 5 States, 10,300.

6 (2) The Army Reserve, 5,000.

7 (3) The Naval Reserve, 6,200.

8 (4) The Marine Corps Reserve, 2,500.

9 (5) The Air National Guard of the United  
 10 States, 10,100.

11 (6) The Air Force Reserve, 3,600.

12 **SEC. 404. ACCOUNTING AND MANAGEMENT OF RESERVE**  
 13 **COMPONENT PERSONNEL PERFORMING AC-**  
 14 **TIVE DUTY OR FULL-TIME NATIONAL GUARD**  
 15 **DUTY FOR OPERATIONAL SUPPORT.**

16 (a) STRENGTH AUTHORIZATIONS.—Section 115 of  
 17 title 10, United States Code, is amended—

18 (1) in subsection (a)(1)(A), by inserting “unless  
 19 on active duty pursuant to subsection (b)” after “ac-  
 20 tive-duty personnel”;

21 (2) in subsection (a)(1)(B), by inserting “unless  
 22 on active duty or full-time National Guard duty pur-  
 23 suant to subsection (b)” after “reserve personnel”;

1           (3) by redesignating subsections (b), (c), (d),  
2           (e), (f), (g) and (h) as subsections (c), (d), (e), (f),  
3           (g), (h) and (i), respectively; and

4           (4) by inserting after subsection (a) the fol-  
5           lowing new subsection (b):

6           “(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE  
7 AUTHORIZED BY LAW.—(1) Congress shall annually au-  
8 thorize the maximum number of members of a reserve  
9 component permitted to be on active duty or full-time Na-  
10 tional Guard duty at any given time who are called or or-  
11 dered to—

12           “(A) active duty under section 12301(d) of this  
13 title for the purpose of providing operational sup-  
14 port, as prescribed in regulation issued by the Sec-  
15 retary of Defense;

16           “(B) full-time National Guard duty under sec-  
17 tion 502(f)(2) of title 32 for the purpose of pro-  
18 viding operational support when authorized by the  
19 Secretary of Defense;

20           “(C) active duty under section 12301(d) of this  
21 title or full-time National Guard duty under section  
22 502(f) of title 32 for the purpose of preparing for  
23 and performing funeral honors functions for funerals  
24 of veterans under section 1491 of this title;

1           “(D) active duty or retained on active duty  
2           under sections 12301(g) of this title while in a cap-  
3           tive status; or

4           “(E) active duty or retained on active duty  
5           under 12301(h) or 12322 of this title for the pur-  
6           pose of medical evaluation or treatment.

7           “(2) A member of a reserve component who exceeds  
8           either of the following limits shall be included in the  
9           strength authorized under subparagraph (A) or subpara-  
10          graph (B), as appropriate, of subsection (a)(1):

11           “(A) A call or order to active duty or full-time  
12          National Guard duty that specifies a period greater  
13          than three years.

14           “(B) The cumulative periods of active duty and  
15          full-time National Guard duty performed by the  
16          member exceed 1095 days in the previous 1460  
17          days.

18           “(3) In determining the period of active service under  
19          paragraph (2), the following periods of active service per-  
20          formed by a member shall not be included:

21           “(A) All periods of active duty performed by a  
22          member who has not previously served in the Se-  
23          lected Reserve of the Ready Reserve.

24           “(B) All periods of active duty or full-time Na-  
25          tional Guard duty for which the member is exempt



1 from strength accounting under paragraphs (1)  
2 through (7) of subsection (i).”.

3 (b) LIMITATION ON APPROPRIATIONS.—Subsection  
4 (c) of such section (as redesignated by subsection (a)(3))  
5 is amended—

6 (1) by striking “or” at the end of paragraph  
7 (1);

8 (2) by striking the period at the end of para-  
9 graph (2) and inserting “; or”; and

10 (3) by inserting after paragraph (2) the fol-  
11 lowing new paragraph:

12 “(3) the use of reserve component personnel to  
13 perform active duty or full-time National Guard  
14 duty under subsection (b) unless the strength for  
15 such personnel for that reserve component for that  
16 fiscal year has been authorized by law.”.

17 (c) AUTHORITY FOR SECRETARY OF DEFENSE  
18 VARIANCES IN MAXIMUM STRENGTHS.—Subsection (f) of  
19 such section (as redesignated by subsection (a)(2)) is  
20 amended—

21 (1) by striking “END” in the heading;

22 (2) by striking “and” at the end of paragraph  
23 (2);

24 (3) by striking the period at the end of para-  
25 graph (3) and inserting “; and”; and

1           (4) by adding at the end the following new  
2       paragraph:

3       “(4) increase the maximum strength authorized pur-  
4       suant to subsection (b)(1) for a fiscal year for certain re-  
5       serves on active duty for any of the reserve components  
6       by a number equal to not more than 10 percent of that  
7       strength.”.

8       (d) CONFORMING AMENDMENTS TO SECTION 115.—  
9       Such section is further amended as follows:

10           (1) Subsection (e) (as redesignated by sub-  
11       section (a)(3)) is amended—

12                (A) in paragraph (1), by striking “sub-  
13       section (a) or (c)” and inserting “subsection (a)  
14       or (d)”; and

15                (B) in paragraph (2)—

16                   (i) by striking “subsections (a) and  
17       (c)”; and inserting “subsections (a) and  
18       (d)”; and

19                   (ii) by striking “pursuant to sub-  
20       section (e)) and subsection (c)” and insert-  
21       ing “pursuant to subsection (f)) and sub-  
22       section (d)” each place it appears.

23           (2) Subsection (g) (as redesignated by sub-  
24       section (a)(3)) is amended by striking “subsection

1 (e)(1)” in paragraph (2) and inserting “subsection  
2 (f)(1)”.

3 (3) Subsection (i) (as redesignated by sub-  
4 section (a)(3)) is amended to read as follows:

5 “(i) CERTAIN PERSONNEL EXCLUDED FROM COUNT-  
6 ING FOR ACTIVE-DUTY END STRENGTHS.—In counting  
7 personnel for the purpose of the end strengths authorized  
8 pursuant to subsection (a)(1), persons in the following cat-  
9 egories shall be excluded:

10 “(1) Members of a reserve component ordered  
11 to active duty under section 12301(a) of this title.

12 “(2) Members of a reserve component in an ac-  
13 tive status ordered to active duty under section  
14 12301(b) of this title.

15 “(3) Members of the Ready Reserve ordered to  
16 active duty under section 12302 of this title.

17 “(4) Members of the Selected Reserve of the  
18 Ready Reserve or members of the Individual Ready  
19 Reserve mobilization category described in section  
20 10144(b) of this title ordered to active duty under  
21 section 12304 of this title.

22 “(5) Members of the National Guard called into  
23 Federal service under section 12406 of this title.

24 “(6) Members of the militia called into Federal  
25 service under chapter 15 of this title.

1           “(7) Members of reserve components on active  
2       duty for training.

3           “(8) Members of the Selected Reserve of the  
4       Ready Reserve on active duty to support programs  
5       described in section 1203(b) of the Cooperative  
6       Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

7           “(9) Members of the National Guard on active  
8       duty or full-time National Guard duty for the pur-  
9       pose of carrying out drug interdiction and counter-  
10      drug activities under section 112 of title 32.

11          “(10) Members of a reserve component on ac-  
12      tive duty under section 10(b)(2) of the Military Se-  
13      lective Service Act (50 U.S.C. App. 460(b)(2)) for  
14      the administration of the Selective Service System.

15          “(11) Members of the National Guard on full-  
16      time National Guard duty for the purpose of pro-  
17      viding command, administrative, training, or support  
18      services for the National Guard Challenge Program  
19      authorized by section 509 of title 32.”.

20      (e) MILITARY TO MILITARY CONTACT STRENGTH AC-  
21   COUNTING.—Subsection (f) of section 168 of such title is  
22   amended to read as follows:

23      “(f) ACTIVE DUTY END STRENGTHS.—A member of  
24   a reserve component who is engaged in activities author-

1 ized under this section shall not be counted for purposes  
2 of the following personnel strength limitations:

3 “(1) The end strength for active-duty personnel  
4 authorized pursuant to section 115(a)(1) of this title  
5 for the fiscal year in which the member carries out  
6 the activities referred to under this section.

7 “(2) The authorized daily average for members  
8 in pay grades E–8 and E–9 under section 517 of  
9 this title for the calendar year in which the member  
10 carries out such activities.

11 (3) The authorized strengths for commissioned  
12 officers under section 523 of this title for the fiscal  
13 year in which the member carries out such activities.

14 (f) E–8 AND E–9 STRENGTH ACCOUNTING.—Sub-  
15 section (a) of section 517 of such title is amended by strik-  
16 ing “(other than for training) in connection with orga-  
17 nizing, administering, recruiting, instructing, or training  
18 the reserve component of an armed force.” and inserting  
19 “as authorized under section 115(a)(1)(B) or 115(b) of  
20 this title, or excluded from counting for active duty end  
21 strengths under section 115(i) of this title.”.

22 (g) FIELD GRADE OFFICER STRENGTH ACCOUNT-  
23 ING.—(1) Paragraph (1) of section 523(b) of such title  
24 is amended to read as follows:

1           “(A) on active duty as authorized under  
 2           section 115(a)(1)(B) or 115(b)(1) of this title,  
 3           or excluded from counting for active duty end  
 4           strengths under section 115(i) of this title;

5           “(B) on active duty under section 10211,  
 6           10302 through 10305, or 12402 of this title or  
 7           under section 708 of title 32; or

8           “(C) on full-time National Guard duty.”;  
 9           and

10       (2) Paragraph (7) of section 523(b) is amended by  
 11       striking “Reserve or retired officers” and inserting “Re-  
 12       tired officers”.

13       (h) ACTIVE GUARD AND RESERVE FIELD GRADE OF-  
 14       FICER STRENGTH ACCOUNTING.—Paragraph (2) of sec-  
 15       tion 12011(e) of such title is amended to read as follows:

16           “(2) Full-time National Guard duty (other than  
 17           for training) under section 502(f) of title 32, except  
 18           for duty under section 115(b)(1)(B) and (C) of this  
 19           title and section 115(i)(9) of this title.”.

20       (i) WARRANT OFFICER ACTIVE-DUTY LIST EXCLU-  
 21       SION.—Paragraph (1) of section 582 of such title is  
 22       amended to read as follows:

23           “(1) Reserve warrant officers—

24           “(A) on active duty as authorized under  
 25           section 115(a)(1)(B) or 115(b)(1) of this title,

1 or excluded from counting for active duty end  
 2 strengths under section 115(i) of this title; or  
 3 “(B) on full-time National Guard duty.”.

4 (j) OFFICER ACTIVE-DUTY LIST, APPLICABILITY OF  
 5 CHAPTER.—Paragraph (1) of section 641 of such is  
 6 amended to read as follows:

7 “(1) Reserve officers—

8 “(A) on active duty authorized under sec-  
 9 tion 115(a)(1)(B) or 115(b)(1) of this title, or  
 10 excluded from counting for active duty end  
 11 strengths under section 115(i) of this title;

12 “(B) on active duty under section 3038,  
 13 5143, 5144, 8038, 10211, 10301 through  
 14 10305, 10502, 10505, 10506(a), 10506(b),  
 15 10507, or 12402 of this title or section 708 of  
 16 title 32; or

17 “(C) on full-time National Guard duty.”.

18 (k) STRENGTH ACCOUNTING FOR MEMBERS PER-  
 19 FORMING DRUG INTERDICTION AND COUNTER-DRUG AC-  
 20 TIVITIES.—Section 112 of title 32, United States Code,  
 21 is amended—

22 (1) by striking subsection (e);

23 (2) by redesignating subsections (f), (g), (h)  
 24 and (i) as subsections (e), (f), (g) and (h) respec-  
 25 tively; and

1           (3) in paragraph (1) of subsection (e), as redес-  
 2           ignated by paragraph (2), by striking “for a period  
 3           of more than 180 days” each place it appears.

4           (l) REPORT.—Not later than June 1, 2005, the Sec-  
 5           retary of Defense shall report to the Committee on Armed  
 6           Services of the Senate and the Committee on Armed Serv-  
 7           ices of the House of Representatives the Secretary’s rec-  
 8           ommendations regarding the exemptions provided in para-  
 9           graphs (8) through (11) by section 115(i) of title 10,  
 10          United States Code, as amended by this section. The rec-  
 11          ommendations shall address the manner in personnel cov-  
 12          ered by those exemptions shall be accounted for in author-  
 13          izations provided by section 115 of such title. The objec-  
 14          tive of the analysis should be to terminate the need for  
 15          such exemptions after September 30, 2006.

16          (m) REGULATIONS.—The Secretary of Defense shall  
 17          prescribe by regulation the meaning of the term “oper-  
 18          ational support” for purposes of paragraph (1) of sub-  
 19          section (b) of section 115 of title 10, United States Code,  
 20          as added by subsection (a).

## 21           **Subtitle B—Reserve Forces**

### 22   **SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

23          (a) IN GENERAL.—The Armed Forces are authorized  
 24          strengths for Selected Reserve personnel of the reserve  
 25          components as of September 30, 2005, as follows:



1           (1) The Army National Guard of the United  
2 States, 350,000.

3           (2) The Army Reserve, 205,000.

4           (3) The Naval Reserve, 83,400.

5           (4) The Marine Corps Reserve, 39,600.

6           (5) The Air National Guard of the United  
7 States, 106,800.

8           (6) The Air Force Reserve, 76,100.

9           (7) The Coast Guard Reserve, 10,000.

10          (b) ADJUSTMENTS.—The end strengths prescribed by  
11 subsection (a) for the Selected Reserve of any reserve com-  
12 ponent shall be proportionately reduced by—

13           (1) the total authorized strength of units orga-  
14 nized to serve as units of the Selected Reserve of  
15 such component which are on active duty (other  
16 than for training) at the end of the fiscal year; and

17           (2) the total number of individual members not  
18 in units organized to serve as units of the Selected  
19 Reserve of such component who are on active duty  
20 (other than for training or for unsatisfactory partici-  
21 pation in training) without their consent at the end  
22 of the fiscal year.

23 Whenever such units or such individual members are re-  
24 leased from active duty during any fiscal year, the end  
25 strength prescribed for such fiscal year for the Selected

1 Reserve of such reserve component shall be increased pro-  
 2 portionately by the total authorized strengths of such  
 3 units and by the total number of such individual members.

4 **SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE**  
 5 **DUTY IN SUPPORT OF THE RESERVES.**

6 Within the end strengths prescribed in section  
 7 411(a), the reserve components of the Armed Forces are  
 8 authorized, as of September 30, 2005, the following num-  
 9 ber of Reserves to be serving on full-time active duty or  
 10 full-time duty, in the case of members of the National  
 11 Guard, for the purpose of organizing, administering, re-  
 12 cruiting, instructing, or training the reserve components:

13 (1) The Army National Guard of the United  
 14 States, 26,476.

15 (2) The Army Reserve, 14,970.

16 (3) The Naval Reserve, 14,152.

17 (4) The Marine Corps Reserve, 2,261.

18 (5) The Air National Guard of the United  
 19 States, 12,225.

20 (6) The Air Force Reserve, 1,900.

21 **SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS**  
 22 **(DUAL STATUS).**

23 The minimum number of military technicians (dual  
 24 status) as of the last day of fiscal year 2005 for the re-  
 25 serve components of the Army and the Air Force (notwith-

1 standing section 129 of title 10, United States Code) shall  
2 be the following:

3 (1) For the Army Reserve, 7,299.

4 (2) For the Army National Guard of the United  
5 States, 25,076.

6 (3) For the Air Force Reserve, 9,954.

7 (4) For the Air National Guard of the United  
8 States, 22,956.

9 **SEC. 414. FISCAL YEAR 2005 LIMITATION ON NUMBER OF**  
10 **NON-DUAL STATUS TECHNICIANS.**

11 (a) LIMITATIONS.—(1) Within the limitation pro-  
12 vided in section 10217(c)(2) of title 10, United States  
13 Code, the number of non-dual status technicians employed  
14 by the National Guard as of September 30, 2005, may  
15 not exceed the following:

16 (A) For the Army National Guard of the  
17 United States, 1,600.

18 (B) For the Air National Guard of the United  
19 States, 350.

20 (2) The number of non-dual status technicians em-  
21 ployed by the Army Reserve as of September 30, 2005,  
22 may not exceed 795.

23 (3) The number of non-dual status technicians em-  
24 ployed by the Air Force Reserve as of September 30,  
25 2005, may not exceed 90.

1 (b) NON-DUAL STATUS TECHNICIANS DEFINED.—In  
2 this section, the term “non-dual status technician” has the  
3 meaning given that term in section 10217(a) of title 10,  
4 United States Code.

5 **Subtitle C—Authorizations of**  
6 **Appropriations**

7 **SEC. 421. MILITARY PERSONNEL.**

8 There is hereby authorized to be appropriated to the  
9 Department of Defense for military personnel for fiscal  
10 year 2005 a total of \$104,647,558,000. The authorization  
11 in the preceding sentence supersedes any other authoriza-  
12 tion of appropriations (definite or indefinite) for such pur-  
13 pose for fiscal year 2005.

14 **SEC. 422. ARMED FORCES RETIREMENT HOME.**

15 There is hereby authorized to be appropriated for fis-  
16 cal year 2005 from the Armed Forces Retirement Home  
17 Trust Fund the sum of \$61,195,000 for the operation of  
18 the Armed Forces Retirement Home.

1 **TITLE V—MILITARY PERSONNEL**  
2 **POLICY**  
3 **Subtitle A—General and Flag**  
4 **Officer Matters**

5 **SEC. 501. LENGTH OF SERVICE FOR SERVICE CHIEFS.**

6 (a) CHIEF OF STAFF OF THE ARMY.—Paragraph (1)  
7 of section 3033(a) of title 10, United States Code, is  
8 amended—

9 (1) by striking “for a period of four years” in  
10 the first sentence; and

11 (2) by striking the second and third sentences  
12 and inserting the following: “The Chief of Staff  
13 serves at the pleasure of the President for a term of  
14 four years. The President may extend the service of  
15 an officer as Chief of Staff for an additional period  
16 of not to exceed two years. In time of war or during  
17 a national emergency declared by Congress, the  
18 President may extend the service of an officer as  
19 Chief of Staff for such additional periods as the  
20 President determines necessary, except that the total  
21 period of an officer’s service as Chief of Staff may  
22 not exceed eight years.”.

23 (b) CHIEF OF NAVAL OPERATIONS.—Paragraph (1)  
24 of section 5033(a) of such title is amended by striking the  
25 third and fourth sentences and inserting the following:

1 “The Chief of Naval Operations serves at the pleasure of  
2 the President. The President may extend the service of  
3 an officer as Chief of Naval Operations for an additional  
4 period of not to exceed two years. In time of war or during  
5 a national emergency declared by Congress, the President  
6 may extend the service of an officer as Chief of Naval Op-  
7 erations for such additional periods as the President deter-  
8 mines necessary, except that the total period of an officer’s  
9 service as Chief of Naval Operations may not exceed eight  
10 years.”.

11 (c) COMMANDANT OF THE MARINE CORPS.—Para-  
12 graph (1) of section 5043(a) of such title is amended by  
13 striking the third and fourth sentences and inserting the  
14 following: “The Commandant serves at the pleasure of the  
15 President. The President may extend the service of an of-  
16 ficer as Commandant for an additional period of not to  
17 exceed two years. In time of war or during a national  
18 emergency declared by Congress, the President may ex-  
19 tend the service of an officer as Commandant for such  
20 additional periods as the President determines necessary,  
21 except that the total period of an officer’s service as Com-  
22 mandant may not exceed eight years.”.

23 (d) CHIEF OF STAFF OF THE AIR FORCE.—Para-  
24 graph (1) of section 8033(a) of such title is amended to  
25 read as follows:

1 (1) by striking “for a period of four years” in  
2 the first sentence; and

3 (2) by striking the second and third sentences  
4 and inserting the following: “The Chief of Staff  
5 serves at the pleasure of the President for a period  
6 of four years. The President may extend the service  
7 of an officer as Chief of Staff for an additional pe-  
8 riod of not to exceed two years. In time of war or  
9 during a national emergency declared by Congress,  
10 the President may extend the service of an officer as  
11 Chief of Staff for such additional periods as the  
12 President determines necessary, except that the total  
13 period of an officer’s service as Chief of Staff may  
14 not exceed eight years.”.

15 **SEC. 502. REPEAL OF REQUIREMENT THAT DEPUTY CHIEFS**  
16 **AND ASSISTANT CHIEFS OF NAVAL OPER-**  
17 **ATIONS BE SELECTED FROM OFFICERS IN**  
18 **THE LINE OF THE NAVY.**

19 (a) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Sec-  
20 tion 5036(a) of title 10, United States Code, is amended  
21 by striking “in the line”.

22 (b) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—  
23 Section 5037(a) of such title is amended by striking “in  
24 the line”.

1 **SEC. 503. INCREASE IN AGE LIMIT FOR DEFERRAL OF MAN-**  
 2 **DATORY RETIREMENT FOR UP TO 10 SENIOR**  
 3 **GENERAL AND FLAG OFFICERS.**

4 Section 1251(b) of title 10, United States Code, is  
 5 amended by striking “64 years of age” and inserting “66  
 6 years of age”.

7 **SEC. 504. INCREASED FLEXIBILITY FOR VOLUNTARY RE-**  
 8 **TIREMENT FOR MILITARY OFFICERS.**

9 (a) IN GENERAL.—Section 1370 of title 10, United  
 10 States Code, is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) by striking “except as provided in  
 14 paragraph (2)” and inserting “subject to  
 15 paragraphs (2) and (3)”; and

16 (ii) by striking “, for not less than six  
 17 months”;

18 (B) by redesignating paragraph (3) as  
 19 paragraph (4); and

20 (C) by striking paragraph (2) and insert-  
 21 ing the following:

22 “(2) In order to be eligible for voluntary retirement  
 23 under this title in a grade below the grade of lieutenant  
 24 colonel or commander, a commissioned officer of the  
 25 Army, Navy, Air Force, or Marine Corps covered by para-



1 graph (1) must have served on active duty in that grade  
2 for not less than six months.

3 “(3)(A) In order to be eligible for voluntary retire-  
4 ment in a grade above major or lieutenant commander and  
5 below brigadier general or rear admiral (lower half), a  
6 commissioned officer of the Army, Navy, Air Force, or  
7 Marine Corps covered by paragraph (1) must have served  
8 on active duty in that grade for not less than three years,  
9 except that the Secretary of Defense may authorize the  
10 Secretary of the military department concerned to reduce  
11 such period to a period not less than two years.

12 “(B) In order to be eligible for voluntary retirement  
13 in a grade above colonel or captain, in the case of the  
14 Navy, a commissioned officer of the Army, Navy, Air  
15 Force, or Marine Corps covered by paragraph (1) must  
16 have served on active duty in that grade for not less than  
17 one year.

18 “(C) An officer in a grade above major general or  
19 rear admiral may be retired in the highest grade in which  
20 the officer served on active duty satisfactorily for not less  
21 than one year, upon approval by the Secretary of the mili-  
22 tary department concerned and concurrence by the Sec-  
23 retary of Defense. The function of the Secretary of De-  
24 fense under the preceding sentence may only be delegated  
25 to a civilian official in the Office of the Secretary of De-

1 fense appointed by the President, by and with the advice  
2 and consent of the Senate.

3 “(D) The President may waive subparagraph (A),  
4 (B) or (C) in individual cases involving extreme hardship  
5 or exceptional or unusual circumstances. The authority of  
6 the President under the preceding sentence may not be  
7 delegated.”;

8 (2) in subsection (b), by inserting “or whose  
9 service on active duty in that grade was not deter-  
10 mined to be satisfactory by the Secretary of the mili-  
11 tary department concerned” after “specified in sub-  
12 section (a)”;

13 (3) by striking subsection (c); and

14 (4) by redesignating subsection (d) as sub-  
15 section (c) and in that subsection—

16 (A) in paragraph (3)—

17 (i) in subparagraph (A)—

18 (I) by inserting “(i)” after  
19 “(3)(A)”;

20 (II) by inserting “and below brig-  
21 adier general or rear admiral (lower  
22 half)” after “lieutenant commander”;

23 (III) by inserting “, except that  
24 the Secretary of Defense may author-  
25 ize the Secretary of the military de-

1                   partment concerned to reduce such  
2                   period to a period not less than two  
3                   years” after “three years”; and

4                   (IV) by adding at the end the fol-  
5                   lowing new clauses:

6           “(ii) In order to be credited with satisfactory service  
7 in a grade above colonel or captain, in the case of the  
8 Navy, a person covered by paragraph (1) must have served  
9 satisfactorily in that grade (as determined by the Sec-  
10 retary of the military department concerned) as a reserve  
11 commissioned officer in active status, or in a retired status  
12 on active duty, for not less than one year.

13           “(iii) An officer covered by paragraph (1) who is in  
14 a grade above the grade of major general or rear admiral  
15 may be retired in the highest grade in which the officer  
16 served satisfactorily for not less than one year, upon ap-  
17 proval by the Secretary of the military department con-  
18 cerned and concurrence by the Secretary of Defense. The  
19 function of the Secretary of Defense under the preceding  
20 sentence may only be delegated to a civilian official in the  
21 Office of the Secretary of Defense appointed by the presi-  
22 dent, by and with the advice and consent of the Senate.”;

23                   (ii) in subparagraphs (D) and (E), by  
24                   striking subparagraph (A)” and inserting  
25                   “subparagraph (A)(i)”; and

1 (iii) by striking subparagraph (F);

2 and

3 (B) by striking paragraphs (5) and (6);

4 and

5 (5) by striking subsection (e).

6 (b) CONFORMING AMENDMENTS.—Section  
7 1406(i)(2) of such title is amended—

8 (1) in the paragraph heading, by striking  
9 “MEMBERS” and all that follows through “SATISFAC-  
10 TORILY” and inserting “ENLISTED MEMBERS RE-  
11 DUCED IN GRADE”;

12 (2) by striking “a member” and inserting “an  
13 enlisted member”;

14 (3) by striking “1998—” and all that follows  
15 through “is reduced in” and inserting “1998, is re-  
16 duced in”;

17 (4) by striking “; or” and inserting a period;

18 and

19 (5) by striking subparagraph (B).

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply with respect to the determination  
22 of the retired grade of members of the Armed Forces retir-  
23 ing on or after the date of the enactment of this Act.

1 **SEC. 505. REPEAL OF REQUIREMENT THAT NO MORE THAN**  
 2 **50 PERCENT OF ACTIVE DUTY GENERAL AND**  
 3 **FLAG OFFICERS BE IN GRADES ABOVE BRIG-**  
 4 **ADIER GENERAL AND REAR ADMIRAL**  
 5 **(LOWER HALF).**

6 (a) REPEAL OF DISTRIBUTION REQUIREMENT.—  
 7 Subsection (a) of section 525 of title 10, United States  
 8 Code, is repealed.

9 (b) REORGANIZATION OF SECTION.—Such section is  
 10 further amended—

11 (1) by striking “(b)(1) No appointment” and  
 12 inserting “(a) LIMITATION ON NUMBER OF GEN-  
 13 ERAL AND FLAG OFFICERS IN SENIOR GRADES.—  
 14 (1) No appointment”; and

15 (2) by striking “(3) An officer” and inserting  
 16 “(b) SPECIAL RULES AND EXCEPTIONS.—(1) An of-  
 17 ficer”; and

18 (3) by redesignating paragraphs (4), (5), (6),  
 19 (7), and (8) as paragraphs (2), (3), (4), (5), and  
 20 (6), respectively.

21 (c) CONFORMING AMENDMENTS.—(1) Subsection (b)  
 22 of such section (as designated by subsection (a)(2)) is  
 23 amended as follows:

24 (A) Paragraph (1) (as redesignated by sub-  
 25 section (a)(2)), paragraph (2)(A) (as redesignated  
 26 by subsection (a)(3)), and paragraph (6) (as redesign-

1 nated by subsection (a)(3)) are amended by striking  
2 “paragraph (1) or (2)” and inserting “subsection  
3 (a)”.

4 (B) Paragraph (3)(A) (as so redesignated) is  
5 amended by striking “under the first sentence of  
6 paragraph (1) or (2), as applicable” and inserting  
7 “under subsection (a)”.

8 (C) Paragraph (4) (as so redesignated) and the  
9 first and third sentences of paragraph (5) (as so re-  
10 designated) are amended by striking “paragraph  
11 (1)” and inserting “subsection (a)(1)”.

12 (D) The second sentence of paragraph (5) (as  
13 so redesignated) is amended by striking “paragraph  
14 (1) or (2)” and inserting “subsection (a)(2)”.

15 (2) Subsection (c) of such section is amended—

16 (A) by striking “(c)(1)” and inserting “(c) ‘RE-  
17 ALLOCATION AUTHORITY.—(1)’”;

18 (B) in paragraph (1)(A), by striking “sub-  
19 section (b)(1)” and inserting “subsection (a)(1)”;

20 (C) in paragraph (1)(B), by striking “sub-  
21 section (b)(2)” and inserting “subsection (a)(2)”;

22 and

23 (D) in paragraph (3)(A), by striking “sub-  
24 section (b)” and inserting “subsections (a) and (b)”.

1           (3) Subsection (d) of such section is amended  
 2       by inserting “SPECIAL RULE FOR OFFICERS FOR-  
 3       MERLY ON JOINT CHIEFS OF STAFF.—” after  
 4       “(d)”.

5       (d) CLERICAL AMENDMENTS.—(1) The heading of  
 6       such section is amended to read as follows:

7       **“§ 525. Distribution in grade: general and flag officers**  
 8               **on active duty”.**

9       (2) The item relating to such section in the table of  
 10      sections at the beginning of chapter 32 of such title is  
 11      amended to read as follows:

“525. Distribution in grade: general and flag officers on active duty.”.

12      **SEC. 506. REVISION TO TERMS FOR ASSISTANTS TO THE**  
 13               **CHAIRMAN OF THE JOINT CHIEFS OF STAFF**  
 14               **FOR NATIONAL GUARD AND RESERVE MAT-**  
 15               **TERS.**

16      (a) CODIFICATION AND REVISION.—Chapter 5 of  
 17      title 10, United States Code, is amended by adding at the  
 18      end a new section 156 consisting of—

19           (1) the following section heading:

20      **“§ 156. Assistants to the Chairman for National**  
 21               **Guard matters and for Reserve matters”;**

22      and

23           (2) a text consisting of the text of subsections  
 24      (a) through (f)(1) of section 901 of the National De-

1       fense Authorization Act for Fiscal Year 1998 (10  
2       U.S.C. 155 note), revised—

3               (A) in subsection (c), by deleting “two  
4       years” and inserting “four years”; and

5               (B) in subsection (f), by deleting “(1)”.

6       (b) CLERICAL AMENDMENT.—The table of sections  
7 at the beginning of such chapter is amended by adding  
8 at the end the following new item:

“156. Assistants to the Chairman for National Guard members and for Reserve matters.”.

9       (c) CONFORMING REPEAL.—Section 901 of the Na-  
10 tional Defense Authorization Act for Fiscal Year 1998 (10  
11 U.S.C. 155 note) is repealed.

12 **SEC. 507. SUCCESSION FOR POSITION OF CHIEF, NATIONAL**  
13 **GUARD BUREAU.**

14       (a) DESIGNATION OF SENIOR OFFICER IN NATIONAL  
15 GUARD BUREAU.—Section 10502 of title 10, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing new subsection:

18       “(e) SUCCESSION.—(1) Unless otherwise directed by  
19 the President or Secretary of Defense, when there is a  
20 vacancy in the office of the Chief of the National Guard  
21 Bureau or in the event the Chief of the National Guard  
22 Bureau is unable to perform the duties of that office, the  
23 senior of the officers specified in paragraph (2) shall serve  
24 as the acting Chief until a successor is appointed or the



1 Chief once again is able to perform the duties of that of-  
2 fice.

3 “(2) The officers specified in this paragraph are the  
4 following:

5 “(A) The senior officer of the Army National  
6 Guard of the United States on duty with the Na-  
7 tional Guard Bureau.

8 “(B) The senior officer of the Air National  
9 Guard of the United States on duty with the Na-  
10 tional Guard Bureau.”.

11 (b) CLERICAL AMENDMENTS.—(1) The heading of  
12 such section is amended to read as follows:

13 **“§ 10502. Chief of the National Guard Bureau: ap-  
14 pointment; adviser on National Guard  
15 matters; grade; succession”.**

16 (2) The item relating to such section in the table of  
17 sections at the beginning of chapter 1011 of such title is  
18 amended to read as follows:

“10502. Chief of the National Guard Bureau: appointment; adviser on National  
Guard matters; grade; succession.”.

19 (c) REPEALER.—Subsections (d) and (e) of section  
20 10505 of such title are repealed.

1 **SEC. 508. TITLE OF VICE CHIEF OF THE NATIONAL GUARD**  
2 **BUREAU CHANGED TO DIRECTOR OF THE**  
3 **JOINT STAFF OF THE NATIONAL GUARD BU-**  
4 **REAU.**

5 (a) IN GENERAL.—Section 10505 of title 10, United  
6 States Code, as amended by section 507(c), is amended  
7 by striking “Vice Chief of the National Guard Bureau”  
8 each place it appears in subsections (a), (b), and (c) and  
9 inserting “Director of the Joint Staff of the National  
10 Guard Bureau”.

11 (b) CLERICAL AMENDMENTS.—(1) The heading of  
12 such section is amended to read as follows:

13 **“§ 10505. Director of the Joint Staff of the National**  
14 **Guard Bureau”.**

15 (2) The item relating to such section in the table of  
16 sections at the beginning of chapter 1011 of such title is  
17 amended to read as follows:

“10505. Director of the Joint Staff of the National Guard Bureau.”.

18 **SEC. 509. TWO-YEAR EXTENSION OF AUTHORITY TO WAIVE**  
19 **REQUIREMENT THAT RESERVE CHIEFS AND**  
20 **NATIONAL GUARD DIRECTORS HAVE SIGNIFI-**  
21 **CANT JOINT DUTY EXPERIENCE.**

22 (a) EXTENSION.—Sections 3038(b)(4), 5143(b)(4),  
23 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10,  
24 United States Code, are amended by striking “December  
25 31, 2004,” and inserting “December 31, 2006,”.

1 (b) FUTURE COMPLIANCE.—Not later than one year  
 2 after the date of the enactment of this Act, the Secretary  
 3 of Defense shall submit to the Committee on Armed Serv-  
 4 ices of the House of Representatives and the Committee  
 5 on Armed Services of the Senate a plan for ensuring that  
 6 all officers selected after December 31, 2006, for rec-  
 7 ommendation for appointment as a Reserve chief or Na-  
 8 tional Guard director have significant joint duty experi-  
 9 ence, as required by law, and may be so recommended  
 10 without requirement for a waiver of such requirement.  
 11 Such plan shall be developed in coordination with the  
 12 Chairman of the Joint Chiefs of Staff.

13 **SEC. 510. REPEAL OF DISTRIBUTION REQUIREMENTS FOR**  
 14 **NAVAL RESERVE FLAG OFFICERS.**

15 Subsection (c) of 12004 of title 10, United States  
 16 Code, is amended—

- 17 (1) by striking “(1)” after “(c)”; and  
 18 (2) by striking the second sentence and all that  
 19 follows through the end of the subsection.

20 **Subtitle B—Other Officer**  
 21 **Personnel Policy Matters**

22 **SEC. 511. TRANSITION OF ACTIVE-DUTY LIST OFFICER**  
 23 **FORCE TO ALL REGULAR STATUS.**

24 (a) REPEAL OF REQUIREMENT THAT ACTIVE-DUTY  
 25 OFFICERS SERVE IN A RESERVE COMPONENT FOR AT

1 LEAST ONE YEAR BEFORE RECEIVING A REGULAR COM-  
2 MISSION.—Section 532 of title 10, United States Code, is  
3 amended by striking subsection (e).

4 (b) REVISION TO QUALIFICATIONS FOR ORIGINAL  
5 APPOINTMENT AS A COMMISSIONED OFFICER.—(1) Sec-  
6 tion 532 of such title is further amended by adding at  
7 the end the following new subsection:

8 “(f) The Secretary of Defense may waive the require-  
9 ment of paragraph (1) of subsection (a) with respect to  
10 a person who has been lawfully admitted to the United  
11 States for permanent residence when the Secretary deter-  
12 mines that the national security so requires, but only for  
13 an original appointment in a grade below the grade of  
14 major or lieutenant commander.”.

15 (2) Section 619(d) of such title is amended by adding  
16 at the end the following new paragraph:

17 “(5) An officer of the Army, Air Force, or Ma-  
18 rine Corps in the grade of captain, or of the Navy  
19 in the grade of lieutenant, who is not a citizen of the  
20 United States.”.

21 (c) REPEAL OF LIMITATIONS ON TOTAL STRENGTH  
22 OF REGULAR COMMISSIONED OFFICERS ON ACTIVE-  
23 DUTY.—Section 522 of such title is repealed. The table  
24 of sections at the beginning of chapter 31 of such title  
25 is amended by striking the item relating to that section.

1 (d) AUTHORITY FOR ORIGINAL APPOINTMENT OF  
2 REGULAR OFFICERS IN JUNIOR GRADES TO BE MADE BY  
3 PRESIDENT ALONE.—Section 531(a) of such title is  
4 amended to read as follows:

5 “(a)(1) Original appointments in the grades of sec-  
6 ond lieutenant, first lieutenant, and captain in the Regular  
7 Army, Regular Air Force, and Regular Marine Corps and  
8 in the grades of ensign, lieutenant (junior grade), and lieu-  
9 tenant in the Regular Navy shall be made by the President  
10 alone.

11 “(2) Original appointments in the grades of major,  
12 lieutenant colonel, and colonel in the Regular Army, Reg-  
13 ular Air Force, and Regular Marine Corps and in the  
14 grades of lieutenant commander, commander, and captain  
15 in the Regular Navy shall be made by the President, by  
16 and with the advice and consent of the Senate.”.

17 (e) TERMINATION OF REQUIREMENT OF 6 YEARS  
18 SERVICE IN A RESERVE COMPONENT FOR NONREGULAR  
19 SERVICE RETIREMENT ELIGIBILITY.—(1) Section  
20 12731(a)(3) of such title is amended by inserting after  
21 “(3)” the following: “in the case of a person who com-  
22 pleted the service requirements of paragraph (2) before  
23 the date of the enactment of the National Defense Author-  
24 ization Act for Fiscal Year 2005,”.

(f) ALL REGULAR OFFICER APPOINTMENTS FOR STUDENTS ATTENDING UNIVERSITY OF HEALTH SCIENCES.—Section 2114(b) of such title is amended by striking the first two sentences and inserting the following: “They shall be appointed in a regular component of the uniformed services and shall serve on active duty as a second lieutenant or ensign (or the equivalent).”.

**SEC. 512. MANDATORY RETENTION ON ACTIVE DUTY TO QUALIFY FOR RETIREMENT PAY.**

Section 12686(a) of title 10, United States Code, is amended by inserting “(other than the retirement system under chapter 1223 of this title)” after “retirement system”.

**SEC. 513. DISTRIBUTION IN GRADE OF MARINE CORPS RE-SERVE OFFICERS IN AN ACTIVE STATUS IN GRADES BELOW BRIGADIER GENERAL**

The table in section 12005(c)(1) of title 10, United States Code, is amended to read as follows:

“Colonel .....	2 percent
Lieutenant colonel .....	8 percent
Major .....	16 percent
Captain .....	39 percent
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under sec- tion 12004 of this title) .....	35 percent.”.

**SEC. 514. TUITION ASSISTANCE FOR OFFICERS.**

(a) AUTHORITY TO REDUCE OR WAIVE ACTIVE DUTY SERVICE OBLIGATION.—Subsection (b) of section 2007 of title 10, United States Code, is amended—

1 (1) by inserting “(1)” after “(b)”;

2 (2) by inserting “or full-time National Guard  
3 duty” after “active duty” each place it appears; and

4 (2) by adding at the end the following new  
5 paragraph:

6 “(2) Notwithstanding paragraph (1), the Secretary of  
7 the military department may reduce or waive the active  
8 duty service obligation—

9 “(A) in the case of a commissioned officer who  
10 is subject to mandatory separation;

11 “(B) in the case of a commissioned officer who  
12 has completed the period of active duty service in  
13 support of a contingency operation; or

14 “(C) in other exigent circumstances as deter-  
15 mined by the Secretary.’.

16 (b). INCREASE IN TUITION ASSISTANCE AUTHOR-  
17 IZED FOR ARMY OFFICERS IN THE SELECTED RE-  
18 SERVE.—Paragraph (1) of section 2007(c) of title 10,  
19 United States Code, is amended to read as follows:

20 “(1) Subject to paragraphs (2) and (3), the Secretary  
21 of the Army may pay the charges of an educational insti-  
22 tution for the tuition or expenses of an officer in the Se-  
23 lected Reserve of the Army National Guard or the Army  
24 Reserve for education or training of such officer.”.

1       (c) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) may, at the discretion of the Secretary con-  
 3 cerned, be applied to a service obligation incurred by an  
 4 officer serving on active duty as of the date of the enact-  
 5 ment of this Act.

## 6       **Subtitle C—Reserve Component** 7                                   **Matters**

### 8       **SEC. 521. REVISION TO STATUTORY PURPOSE OF THE RE-** 9                                   **SERVE COMPONENTS.**

10       Subsection 10102 of title 10, United States Code, is  
 11 amended by striking “, during” and all that follows  
 12 through “planned mobilization,”.

### 13       **SEC. 522. IMPROVED ACCESS TO RESERVE COMPONENT** 14                                   **MEMBERS FOR ENHANCED TRAINING.**

15       (a) RESERVE COMPONENTS GENERALLY.—Section  
 16 12301 of title 10, United States Code, is amended—

17               (1) in subsection (a), by striking “(other than  
 18       for training)”;

19               (2) in subsection (c)—

20                       (A) in the first sentence, by striking  
 21       “(other than for training)” and inserting “as  
 22       provided in subsection (a)”;

23                       (B) in the second sentence, by striking  
 24       “ordered to active duty (other than for train-



1 ing)” and inserting “so ordered to active duty”;  
2 and

3 (3) in subsection (e), by striking “(other than  
4 for training)” and inserting “as provided in sub-  
5 section (a)”.

6 (b) READY RESERVE.—Section 12302 of such title  
7 is amended by striking “(other than for training)” in sub-  
8 sections (a) and (c).

9 (c) ORDER TO ACTIVE DUTY OTHER THAN DURING  
10 WAR OR NATIONAL EMERGENCY.—Section 12304(a) of  
11 such title is amended by striking “(other than for train-  
12 ing)”.

13 (d) STANDBY RESERVE.—Section 12306 of such title  
14 is amended—

15 (1) in subsection (a), by striking “(other than  
16 for training) only”; and

17 (2) in subsection (b), by striking “(other than  
18 for training)” in paragraphs (1) and (2) and insert-  
19 ing “as provided in section 12301(a) of this title”.

20 (d) STANDBY RESERVE.—Section 12306 of such title  
21 is amended by striking “(other than for training)” each  
22 place it appears and inserting “as provided in section  
23 12301(a)”.

1 **SEC. 523. STATUS UNDER DISABILITY RETIREMENT SYSTEM**  
2 **FOR RESERVE MEMBERS RELEASED FROM**  
3 **ACTIVE DUTY DUE TO INABILITY TO PER-**  
4 **FORM WITHIN 30 DAYS OF CALL TO ACTIVE**  
5 **DUTY.**

6 (a) IN GENERAL.—Chapter 61 of title 10, United  
7 States Code, is amended by inserting after section 1206  
8 the following new section:

9 **“§ 1206a. Reserve component members unable to per-**  
10 **form duties when ordered to active duty:**  
11 **disability system processing**

12 “(a) MEMBERS RELEASED FROM ACTIVE DUTY  
13 WITHIN 30 DAYS.—A member of a reserve component  
14 who is ordered to active duty for a period of more than  
15 30 days and is released from active duty within 30 days  
16 of commencing such period of active duty for a reason  
17 stated in subsection (b) shall be considered for all pur-  
18 poses under this chapter to have been serving under an  
19 order to active duty for a period of 30 days or less.

20 “(b) APPLICABLE REASONS FOR RELEASE.—Sub-  
21 section (a) applies in the case of a member released from  
22 active duty because of a failure to meet—

23 “(1) physical standards for retention; or

24 “(2) medical or dental standards for deploy-  
25 ment due to a preexisting condition not aggravated  
26 during the period of active duty.

1       “(c) SAVINGS PROVISION FOR MEDICAL CARE PRO-  
 2 VIDED WHILE ON ACTIVE DUTY.—Notwithstanding sub-  
 3 section (a), any benefit under chapter 55 of this title re-  
 4 ceived by a member described in subsection (a) or a de-  
 5 pendent of such member before or during the period of  
 6 active duty shall not be subject to recoupment or otherwise  
 7 affected.”.

8       (b) CLERICAL AMENDMENT.—The table of sections  
 9 at the beginning of such chapter is amended by inserting  
 10 after the item relating to section 1206 the following new  
 11 item:

“1206a. Reserve component members unable to perform duties when ordered to  
 active duty: disability system processing.”.

12 **SEC. 524. FEDERAL CIVIL SERVICE MILITARY LEAVE FOR**  
 13 **RESERVE AND NATIONAL GUARD CIVILIAN**  
 14 **TECHNICIANS.**

15       Section 6323(d)(1) of title 5, United States Code is  
 16 amended by striking “(other than active duty during a war  
 17 or national emergency declared by the President or Con-  
 18 gress)”.

19 **SEC. 525. EXPANDED EDUCATIONAL ASSISTANCE AUTHOR-**  
 20 **ITY FOR OFFICERS COMMISSIONED**  
 21 **THROUGH ROTC PROGRAM AT MILITARY**  
 22 **JUNIOR COLLEGES.**

23       (a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE  
 24 ON ACTIVE DUTY.—Section 2107(c) of title 10, United

1 States Code, is amended by adding at the end the fol-  
2 lowing new paragraphs:

3 “(5)(A) The Secretary of the Army may provide an  
4 individual who received a commission as a Reserve officer  
5 in the Army from a military junior college through a pro-  
6 gram under this chapter and who does not have a  
7 baccalaureate degree with financial assistance for pursuit  
8 of a baccalaureate degree.

9 “(B) Such assistance is in addition to any financial  
10 assistance provided under paragraph (1), (3), or (4).

11 “(C) The agreement and reimbursement require-  
12 ments established in section 2005 of this title are applica-  
13 ble to financial assistance under this paragraph.

14 “(D) An officer receiving financial assistance under  
15 this paragraph shall be attached to the unit of the Army  
16 at the educational institution at which the officer is pur-  
17 suing a baccalaureate degree and shall be considered to  
18 be a member of the Senior Reserve Officers’ Training  
19 Corps on inactive duty for training, as defined in section  
20 101(23) of title 38.

21 “(E) A qualified officer who did not previously receive  
22 financial assistance under this section is eligible to receive  
23 educational assistance under this paragraph.

1       “(F) A Reserve officer may not be called or ordered  
2 to active duty for a deployment while participating in the  
3 program under this paragraph.

4       “(G) Any service obligation incurred by an officer  
5 under an agreement entered into under this paragraph  
6 shall be in addition to any service obligation incurred by  
7 that officer under any other provision of law or agreement.

8       “(H) The amount obligated during any fiscal year  
9 under this paragraph and paragraph (4) of section  
10 2107a(c) of this title may not exceed a total of  
11 \$1,500,000.”.

12       (b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE  
13 IN TROOP PROGRAM UNITS.—Section 2107a(c) of such  
14 title is amended by adding at the end the following new  
15 paragraphs:

16       “(4)(A) The Secretary of the Army may provide an  
17 individual who received a commission as a Reserve officer  
18 in the Army from a military junior college through a pro-  
19 gram under this chapter and who does not have a  
20 baccalaureate degree with financial assistance for pursuit  
21 of a baccalaureate degree.

22       “(B) Such assistance is in addition to any provided  
23 under paragraph (1) or (2).

1       “(C) The agreement and reimbursement require-  
2   ments established in section 2005 of this title are applica-  
3   ble to financial assistance under this paragraph.

4       “(D) An officer receiving financial assistance under  
5   this paragraph shall be attached to the unit of the Army  
6   at the educational institution at which the officer is pur-  
7   suing a baccalaureate degree and shall be considered to  
8   be a member of the Senior Reserve Officers’ Training  
9   Corps on inactive duty for training, as defined in section  
10  101(23) of title 38.

11       “(E) A qualified officer who did not previously receive  
12   financial assistance under this section is eligible to receive  
13   educational assistance under this paragraph.

14       “(F) A Reserve officer may not be called or ordered  
15   to active duty for a deployment while participating in the  
16   program under this paragraph.

17       “(G) Any service obligation incurred by an officer  
18   under an agreement entered into under this paragraph  
19   shall be in addition to any service obligation incurred by  
20   that officer under any other provision of law or agree-  
21   ment.”.

22       “(H) As provided in subparagraph (H) of section  
23   2107(c)(5) of this title, the amount obligated during any  
24   fiscal year under this paragraph and paragraph (5) of sec-

1 tion 2107(c) of this title may not exceed a total of  
2 \$1,500,000.”.

3 (c) REPEAL OF SUNSET PROVISION FOR FINANCIAL  
4 ASSISTANCE PROGRAM FOR STUDENTS NOT ELIGIBLE  
5 FOR ADVANCED TRAINING.—Section 2103a of such title  
6 is amended by striking subsection (d).

7 (d) ANNUAL IMPLEMENTATION REPORT.—The Sec-  
8 retary of the Army shall submit to the Committees on  
9 Armed Services of the Senate and House of Representa-  
10 tives an annual report, for each of the next six years after  
11 the enactment of this Act, providing information on the  
12 experience of the Department of Defense during the pre-  
13 ceding year under paragraph (5) of section 2107(c) of title  
14 10, United States Code, as added by subsection (a), and  
15 under paragraph (4) of section 2107a(c) of title 10,  
16 United States Code, as added by subsection (b). The re-  
17 port for with respect to any year shall be submitted not  
18 later March 31 of the following year.

19 **SEC. 526. EFFECT OF APPOINTMENT OR COMMISSION AS**  
20 **OFFICER ON ELIGIBILITY FOR SELECTED RE-**  
21 **SERVE EDUCATION LOAN REPAYMENT PRO-**  
22 **GRAM FOR ENLISTED MEMBERS.**

23 (a) CONTINUATION OF LOAN REPAYMENT.—Section  
24 16301(a) of title 10, United States Code, is amended—

1           (1) in paragraph (2), by striking “The Sec-  
2       retary” in the first sentence and inserting “Except  
3       as provided in paragraph (3), the Secretary of De-  
4       fense”; and

5           (2) by adding at the end the following new  
6       paragraph:

7       “(3) In the case of a commitment made by the Sec-  
8       retary of Defense after the date of the enactment of this  
9       paragraph to repay a loan under paragraph (1) condi-  
10      tioned upon the performance by the borrower of service  
11      as an enlisted member under paragraph (2), the Secretary  
12      shall repay the loan for service performed by the borrower  
13      as an officer (rather than as an enlisted member) in the  
14      case of a borrower who, after such commitment is entered  
15      into and while performing service as an enlisted member,  
16      accepts an appointment or commission as a warrant offi-  
17      cer or commissioned officer of the Selected Reserve.”.

18       (b) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
19      TIONS.—During fiscal year 2005, obligations incurred  
20      under section 16301 of title 10, United States Code, as  
21      amended by subsection (a), to make loan repayments on  
22      behalf of members of the reserve components who accept  
23      an appointment or commission as a warrant officer or  
24      commissioned officer of the Selected Reserve may not ex-  
25      ceed \$1,000,000.



1 **SEC. 527. NUMBER OF STARBASE ACADEMIES IN A STATE.**

2 Paragraph (3) of section 2193b(c) of title 10, United  
3 States Code, is amended to read as follows:

4 “(3)(A) Subject to subparagraph (B), the Secretary  
5 may not support the establishment in any State of more  
6 than two academies.

7 “(B) The Secretary may waive the limitation in sub-  
8 paragraph (A). Any such waiver shall be made under cri-  
9 teria to be prescribed by the Secretary.”.

10 **SEC. 528. COMPTROLLER GENERAL ASSESSMENT OF INTE-**  
11 **GRATION OF ACTIVE AND RESERVE COMPO-**  
12 **NENTS OF THE NAVY.**

13 (a) ASSESSMENT.—The Comptroller General shall re-  
14 view the plan of the Secretary of the Navy for, and imple-  
15 mentation by the Secretary of, initiatives undertaken with-  
16 in the Navy to improve the integration of the active and  
17 reserve components of the Navy in peacetime and wartime  
18 operations resulting from—

19 (1) the Naval Reserve Redesign Study carried  
20 out by the Navy; and

21 (2) the zero-based review of reserve component  
22 force structure undertaken by the commander of the  
23 Fleet Forces Command of the Navy during fiscal  
24 year 2004.

25 (b) REPORT.—No later than March 31, 2005, the  
26 Comptroller General shall submit to the Committees on

1 Armed Services of the Senate and House of Representa-  
2 tives a report on the results of the review under subsection  
3 (a). The Comptroller General shall include in the report  
4 recommendations for improved active and reserve compo-  
5 nent integration in the Navy.

6 (c) LIMITATION.—No funds appropriated or other-  
7 wise made available by this Act may be obligated or ex-  
8 pended to decommission a Naval Reserve or Marine Corps  
9 Reserve aviation squadron until 90 days after the date on  
10 which the report required by subsection (b) is submitted  
11 to the Committees on Armed Services of the Senate and  
12 House of Representatives.

13 (d) MATTERS TO BE EXAMINED.—In conducting the  
14 review, the Comptroller General shall examine the fol-  
15 lowing:

16 (1) The criteria the Navy used to determine the  
17 following with respect to integration of the active  
18 and reserve components of the Navy:

19 (A) The future mix of active and reserve  
20 component force structure.

21 (B) Organization of command and control  
22 elements.

23 (C) Manpower levels.

24 (D) Basing changes.

1           (2) The extent to which the plans of the Navy  
2           for improving the integration of the active and re-  
3           serve components of the Navy considered each of the  
4           following:

5                   (A) The new Fleet Response Plan of the  
6           Navy.

7                   (B) The flexible deployment concept.

8                   (C) Global operations.

9                   (D) Emerging mission requirements.

10                  (E) Other evolving initiatives.

11           (3) The manner in which the timing of the exe-  
12           cution of planned active and reserve integration ini-  
13           tiatives will correlate with the funding of those ini-  
14           tiatives, including consideration of an evaluation of  
15           the adequacy of the funding allocated to those inte-  
16           gration initiatives.

17           (4) For naval aviation forces, the extent to  
18           which the active and reserve component integration  
19           plans of the Navy will affect factors such as—

20                   (A) common training and readiness stand-  
21           ards for active and reserve forces;

22                   (B) reserve component access to the same  
23           equipment as the active component;

1 (C) relationships between command and  
 2 headquarters elements of active and reserve  
 3 forces; and

4 (D) trends in the use by the Navy of units  
 5 referred to as “associate” units or “blended”  
 6 units.

7 (E) Basing of future aviation forces.

8 (F) Employment of Naval Reserve aviation  
 9 forces and personnel in peacetime and wartime  
 10 operations.

11 **SEC. 529. OPERATIONAL ACTIVITIES CONDUCTED BY THE**  
 12 **NATIONAL GUARD UNDER AUTHORITY OF**  
 13 **TITLE 32.**

14 (a) IN GENERAL.—Title 32, United States Code, is  
 15 amended by adding at the end the following new chapter:

16 **“CHAPTER 9—OPERATIONS OF A**  
 17 **NATIONAL OR FEDERAL INTEREST**

“Sec.

“901. Operational activities.

“902. Operational duty.

“903. Funding assistance.

“904. Operations requests.

18 **“§ 901. Operational activities**

19 “The Secretary of Defense may provide funds in ad-  
 20 vance or on a reimbursable basis to a Governor to employ  
 21 National Guard units and individuals to conduct oper-  
 22 ational activities that the Secretary determines to be in

1 the national interest. The Secretary of Defense shall pre-  
2 scribe regulations to implement this chapter.

3 **“§ 902. Operational duty**

4 “All duty performed under this chapter shall be con-  
5 sidered to be full-time National Guard duty under section  
6 502(f) of this title. Members of the National Guard per-  
7 forming full-time National Guard duty in the Active  
8 Guard and Reserve Program may support or execute oper-  
9 ational activities performed by the National Guard under  
10 this chapter.

11 **“§ 903. Funding assistance**

12 “When the Secretary of Defense determines that cer-  
13 tain operational activities of the National Guard are in  
14 the national interest under section 901 of this title, the  
15 Secretary shall provide funds to a State in an amount that  
16 the Secretary determines is appropriate for the following  
17 costs of the operational activities from funds available to  
18 the Department for related purposes:

19 “(1) The pay, allowances, clothing, subsistence,  
20 gratuities, travel, and related expenses of personnel  
21 of the National Guard of that State.

22 “(2) The operation and maintenance of the  
23 equipment and facilities of the National Guard of  
24 that State.

1           “(3) The procurement of services and equip-  
 2           ment, and the leasing of equipment, for the National  
 3           Guard of that State.

4   **“§ 904. Operations requests**

5           “(a) REQUESTS.—A Governor of a State may request  
 6           funding assistance for the operational activities of the Na-  
 7           tional Guard of that State from the Secretary of Defense.  
 8           Any such request shall include the following:

9           “(1) The specific intended operational activities  
 10          of the National Guard of that State.

11          “(2) An explanation of why the operational ac-  
 12          tivities are in the national interest.

13          “(3) A certification that operational activities  
 14          are to be conducted at a time when the personnel in-  
 15          volved are not in Federal service.

16          “(4) A certification that participation by Na-  
 17          tional Guard personnel in the operational activities  
 18          is service in addition to training required under sec-  
 19          tion 502 of this title.”.

20          (b) CLERICAL AMENDMENT.—The table of chapters  
 21          at the beginning of such title is amended by adding at  
 22          the end the following new item:

**“9. Operations of a National or Federal Interest ..... 901”.**

23          (c) CONFORMING AMENDMENT.—Section 115(h) of  
 24          title 10, United States Code, is amended by adding at the  
 25          end the following new subsection:

1       “(i) CERTAIN FULL-TIME NATIONAL GUARD DUTY  
2 PERSONNEL EXCLUDED FROM COUNTING FOR FULL-  
3 TIME NATIONAL GUARD DUTY END STRENGTHS.—In  
4 counting full-time National Guard duty personnel for the  
5 purpose of end-strengths authorized pursuant to sub-  
6 section (a)(1), persons involuntarily performing oper-  
7 ational activities under chapter 9 of title 32 shall be ex-  
8 cluded.”.

9       **SEC. 530. ARMY PROGRAM FOR ASSIGNMENT OF ACTIVE**  
10                               **COMPONENT ADVISERS TO UNITS OF THE SE-**  
11                               **LECTED RESERVE.**

12       (a) CHANGE IN MINIMUM NUMBER REQUIRED TO BE  
13 ASSIGNED.—Section 414(c)(1) of the National Defense  
14 Authorization Act for Fiscal Year 2002 (Public Law 107–  
15 107; 10 U.S.C. 12001 note) is amended by striking  
16 “5,000” and inserting “3,500”.

17       (b) LIMITATION ON REDUCTIONS.—Notwithstanding  
18 the amendment made by subsection (a), the Secretary of  
19 the Army may not reduce the number of active component  
20 Reserve support personnel below the number of such per-  
21 sonnel as of the date of the enactment of this Act until  
22 the report required by subsection (c) has been submitted.

23       (c) REPORT.—Not later than March 31, 2005, the  
24 Secretary of the Army shall submit to the Committees on  
25 Armed Services of the Senate and House of Representa-

1 tives a report on the support by active components of the  
2 Army for training and readiness of the Army National  
3 Guard and Army Reserve. The report shall include an  
4 evaluation and determination of each of the following:

5 (1) The effect on the ability of the Army to im-  
6 prove such training and readiness resulting from the  
7 reduction under the amendment made by subsection  
8 (a) in the minimum number of active component Re-  
9 serve support personnel.

10 (2) The adequacy of having 3,500 members of  
11 the Army (the minimum number required under the  
12 law as so amended) assigned as active component  
13 Reserve support personnel in order to meet emerging  
14 training requirements in the Army reserve compo-  
15 nents in connection with unit and force structure  
16 conversions and preparations for wartime deploy-  
17 ment

18 (3) The nature and effectiveness of efforts by  
19 the Army to reallocate the 3,500 personnel assigned  
20 as active component Reserve support personnel to  
21 higher priority requirements and to expand the use  
22 of reservists on active duty to meet reserve compo-  
23 nent training needs.

24 (4) Whether the Army is planning further re-  
25 ductions in the number of active component Reserve



1 support personnel and, if so, the scope and rationale  
 2 for those reductions.

3 (5) Whether an increase in Army reserve com-  
 4 ponent full-time support personnel will be required  
 5 to replace the loss of active component Reserve sup-  
 6 port personnel.

7 (d) DEFINITION.—In this section, the term “active  
 8 component Reserve support personnel” means the active  
 9 component Army personnel assigned as advisers to units  
 10 of the Selected Reserve of the Ready Reserve of the Army  
 11 pursuant to section 414 of the National Defense Author-  
 12 ization Act for Fiscal Year 2002 (Public Law 107–107;  
 13 10 U.S.C. 12001 note).

## 14 **Subtitle D—Joint Officer** 15 **Management**

16 **SEC. 531. STRATEGIC PLAN TO LINK JOINT OFFICER DE-**  
 17 **VELOPMENT TO OVERALL MISSIONS AND**  
 18 **GOALS OF DEPARTMENT OF DEFENSE.**

19 (a) PLAN REQUIRED.—(1) The Secretary of Defense  
 20 shall develop a strategic plan for joint officer management  
 21 and joint professional military education that links joint  
 22 officer development to the accomplishment of the overall  
 23 missions and goals of the Department of Defense, as set  
 24 forth in the most recent national military strategy under  
 25 section 153(d) of title 10, United States Code. Such plan

1 shall be developed for the purpose of ensuring that suffi-  
2 cient numbers of qualified officers are available as nec-  
3 essary to meet the needs of the Department for qualified  
4 officers who are operationally effective in the joint environ-  
5 ment.

6 (2) The Secretary shall develop the strategic plan  
7 with the advice of the Chairman of the Joint Chiefs of  
8 Staff.

9 (b) MATTERS TO BE INCLUDED.—As part of the stra-  
10 tegic plan under subsection (a), the Secretary shall include  
11 the following:

12 (1) A statement of the levels of joint officer re-  
13 sources needed to be available to properly support  
14 the overall missions of the Department of Defense,  
15 with such resources to be specified by the number of  
16 officers with the joint specialty, the number of offi-  
17 cers required for service in joint duty assignment po-  
18 sitions, and the training and education resources re-  
19 quired.

20 (2) An assessment of the available and pro-  
21 jected joint officer development resources (including  
22 officers, educational and training resources, and  
23 availability of joint duty assignment positions and  
24 tours of duty) necessary to achieve the levels speci-  
25 fied under paragraph (1).

1           (3) Identification of any problems or issues  
2           arising from linking resources for joint officer devel-  
3           opment to accomplishment of the objective of meet-  
4           ing the levels specified under paragraph (1) to re-  
5           solve those problems and issues and plans.

6           (4) A description of the process for identifica-  
7           tion of the requirement for joint specialty officers.

8           (5) A description of the career development and  
9           management of joint specialty officers and of any  
10          changes to be made to facilitate achievement of the  
11          levels of resources specified in paragraph (1), includ-  
12          ing additional education requirements, promotion op-  
13          portunities, and assignments to fill joint assign-  
14          ments.

15       (c) INCLUSION OF RESERVE COMPONENT OFFI-  
16   CERS.—In developing the strategic plan required by sub-  
17   section (a), the Secretary shall include joint officer devel-  
18   opment for officers on the reserve active-status list in the  
19   plan.

20       (d) REPORT.—The Secretary shall submit the plan  
21   developed under this section to the Committees on Armed  
22   Services of the Senate and House of Representatives not  
23   later than January 15, 2006.

24       (e) ADDITIONAL ASSESSMENT.—Not later than Jan-  
25   uary 15, 2007, the Secretary of Defense shall submit to

1 the Committees on Armed Services of the Senate and  
2 House of Representatives, as a follow-on to the report  
3 under subsection (d), a report providing an assessment of,  
4 and initiatives to improve, the performance in joint mat-  
5 ters of the following:

6 (1) Senior civilian officers and employees in the  
7 Office of the Secretary of Defense, the Defense  
8 Agencies, and the military departments.

9 (2) Senior noncommissioned officers.

10 (3) Senior leadership in the reserve compo-  
11 nents.

12 **SEC. 532. JOINT REQUIREMENTS FOR PROMOTION TO FLAG**  
13 **OR GENERAL OFFICER GRADE.**

14 (a) **EFFECTIVE DATE FOR JOINT SPECIALTY OFFI-**  
15 **CER REQUIREMENT.**—Subsection (a)(2) of section 619a of  
16 title 10, United States Code, is amended by striking “Sep-  
17 tember 30, 2007” and inserting “September 30, 2008”.

18 (b) **EXCEPTION TO JOINT DUTY REQUIREMENT FOR**  
19 **OFFICERS SERVING IN JOINT DUTY ASSIGNMENT WHEN**  
20 **CONSIDERED FOR PROMOTION.**—Subsection (b)(4) of  
21 such section is amended by striking “if—” and all that  
22 follows through “(B) the officer’s” and inserting “if the  
23 officer’s”.

1 **SEC. 533. CLARIFICATION OF TOURS OF DUTY QUALIFYING**  
2 **AS A JOINT DUTY ASSIGNMENT.**

3 (a) CONSECUTIVE TOURS OF DUTY IN JOINT DUTY  
4 ASSIGNMENTS.—Section 668(c) of title 10, United States  
5 Code, is amended by striking “within the same organiza-  
6 tion”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall not apply in the case of a joint duty  
9 assignment completed by an officer before the date of the  
10 enactment of this Act, except in the case of an officer has  
11 continued in joint duty assignments, without a break in  
12 service in such assignments, between the end of such as-  
13 signment and the date of the enactment of this Act.

14 **SEC. 534. AUTHORITY FOR RESERVE OFFICERS TO QUALIFY**  
15 **AS JOINT SPECIAL OFFICERS.**

16 (a) AUTHORITY.—Subsection (a) of section 661 of  
17 title 10, United States Code, is amended by striking “on  
18 the active-duty list”.

19 (b) NOMINATIONS FOR SELECTION.—Subsection (b)  
20 of such section is amended in the second sentence—

21 (1) by striking “and” after “military depart-  
22 ment,”; and

23 (2) by inserting after “such date,” the fol-  
24 lowing: “, and each reserve component officer in an  
25 active status who is not on the active-duty list,”.

1 (c) CONFORMING AMENDMENTS.—(1) Section 662 of  
2 such title is amended—

3 (A) in subsection (a), by inserting “on the ac-  
4 tive-duty list” after “qualifications of officers” in the  
5 matter preceding paragraph (1); and

6 (B) in subsection (b), by inserting “on the ac-  
7 tive-duty list” after “preceding fiscal year of offi-  
8 cers” in the first sentence.

9 (2)(A) The heading of such section is amended to  
10 read as follows:

11 **“§ 662. Promotion policy objectives for joint officers**  
12 **on the active-duty list”.**

13 (B) The item relating to such section in the table of  
14 sections at the beginning of chapter 38 of such title is  
15 amended to read as follows:

“662. Promotion policy objectives for joint officers on the active-duty list.”.

16 (d) ANNUAL REPORT TO CONGRESS.—(1) Section  
17 667 of such title is amended—

18 (A) by redesignating paragraph (18) as para-  
19 graph (19); and

20 (B) by inserting after paragraph (17) the fol-  
21 lowing new paragraph (18):

22 “(18) The implementation of authority under  
23 section 661 of this title to certify reserve component  
24 officers as joint specialty officers, together with the

1        number of reserve component officers who were so  
2        certified during the reporting period.”.

3        (2) The Secretary of Defense shall include in the an-  
4        nual report of the Secretary to Congress for fiscal year  
5        2005, as part of the material included in that report pur-  
6        suant to paragraph (18) of section 667 of title 10, United  
7        States Code, a summary of the joint officer management  
8        policies adopted for reserve component officers pursuant  
9        to the amendments made by subsections (a) and (b).

## 10        **Subtitle E—Professional Military** 11        **Education**

### 12        **SEC. 541. IMPROVEMENT TO PROFESSIONAL MILITARY** 13        **EDUCATION IN THE DEPARTMENT OF DE-** 14        **FENSE.**

15        (a) IN GENERAL.—Part III of subtitle A of title 10,  
16        United States Code, is amended—

17                (1) by redesignating chapter 107 as chapter  
18        106A; and

19                (2) by inserting before chapter 108 the fol-  
20        lowing new chapter:

### 21        **“CHAPTER 107—PROFESSIONAL MILITARY** 22        **EDUCATION**

“Sec.

“2151. Definitions

“2152. Professional military education: general requirements.

“2153. Capstone course: newly selected general and flag officers.

“2154. Joint professional military education: three-phase approach.

“2155. Intermediate level service colleges: written examination for selection for  
attendance.

“2156. Joint professional military education phase II program of instruction.

“2157. Intermediate and senior level service colleges; Joint Forces Staff College:  
duration of principle course of instruction.

“2158. Annual report to Congress.

# **1 “§ 2151. Definitions**

## **2 (a) JOINT PROFESSIONAL MILITARY EDUCATION.—**

3 Joint professional military education consists of the rig-  
4 orous and thorough instruction and examination of offi-  
5 cers of the armed forces in an environment designed to  
6 promote a theoretical and practical in-depth under-  
7 standing of joint matters and, specifically, of the subject  
8 matter covered. The subject matter to be covered by joint  
9 professional military education shall include at least the  
10 following:

11 “(1) Integrated employment of land, sea,  
12 and air forces.

13 “(2) National military strategy.

14 “(3) Strategic planning.

15 “(4) Contingency planning.

16 “(5) Command and control of combat op-  
17 erations under unified command.

18 “(6) Joint and combined operations.

19 “(7) Joint doctrine.

20 “(8) Joint logistics.

21 “(9) Joint communications.

22 “(10) Joint intelligence.

23 “(11) Campaign planning.



1           “(12) Joint military command and control  
2           systems and the interface of those systems with  
3           national command systems.

4           “(13) Joint force development, including  
5           mobilization.

6           “(14) Joint requirements development.

7           “(15) Military history.

8           “(16) Awareness of cultures in areas out-  
9           side of the United States where United States  
10          forces may operate or of forces of foreign coun-  
11          tries with whom United States forces may oper-  
12          ate.

13       “(b) OTHER DEFINITIONS.—In this chapter:

14           “(1) The term ‘senior level service school’  
15       means any of the following:

16           “(A) The Army War College.

17           “(B) The College of Naval Warfare.

18           “(C) The Air War College.

19           “(D) The Marine Corps University.

20           “(2) The term ‘intermediate level service school’  
21       means any of the following:

22           “(A) The United States Army Command  
23           and General Staff College.

24           “(B) The College of Naval Command and  
25           Staff.

1 “(C) The Air Command and Staff College.

2 “(D) The Marine Corps Command and  
3 Staff College.

4 **“§ 2152. Joint professional military education: gen-**  
5 **eral requirements**

6 “(a) IN GENERAL.—The Secretary of Defense shall  
7 implement a coherent and comprehensive framework for  
8 the joint professional military education of officers, includ-  
9 ing officers nominated under section 661 of this title for  
10 the joint specialty.

11 **“§ 2153. Capstone course: newly selected general and**  
12 **flag officers**

13 “(a) REQUIREMENT.—Each officer selected for pro-  
14 motion to the grade of brigadier general or, in the case  
15 of the Navy, rear admiral (lower half) shall be required,  
16 after such selection, to attend a military education course  
17 designed specifically to prepare new general and flag offi-  
18 cers to work with the other armed forces.

19 “(b) WAIVER AUTHORITY.—(1) Subject to paragraph  
20 (2), the Secretary of Defense may waive subsection (a)—

21 “(A) in the case of an officer whose imme-  
22 diately previous assignment was in a joint duty as-  
23 signment and who is thoroughly familiar with joint  
24 matters;

25 “(B) when necessary for the good of the service;

“(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

18       “(a) **THREE-PHASE APPROACH.**—The Secretary of  
19 Defense shall implement a three-phase approach to joint  
20 professional military education, as follows:

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1        cipal curriculum taught to all officers at an inter-  
2        mediate level service school.

3            “(2) There shall be a course of instruction, des-  
4        ignated and certified by the Secretary of Defense as  
5        Phase II instruction, consisting of a joint profes-  
6        sional military education curriculum taught in resi-  
7        dence at—

8            “(A) the Joint Forces Staff College; or

9            “(B) a senior level service school that has  
10        been designated and certified by the Secretary  
11        of Defense as a joint professional military edu-  
12        cation institution.

13           “(3) There shall be a course of instruction, des-  
14        ignated and certified by the Secretary of Defense as  
15        the Capstone course, for officers selected for pro-  
16        motion to the grade of brigadier general or, in the  
17        case of the Navy, rear admiral (lower half) and of-  
18        fered in accordance with section 2153 of this title.

19        “(b) SEQUENCED APPROACH.—The Secretary shall  
20        require the sequencing of joint professional military edu-  
21        cation so that the standard sequence of assignments for  
22        such education requires an officer to complete Phase I in-  
23        struction before proceeding to Phase II instruction, as  
24        provided in section 2156(a) of this title.

1 **“§ 2155. Intermediate level service school: written ex-**  
2 **amination for selection for attendance**

3       “(a) REQUIREMENT.—The Secretary of each military  
4 department shall require that performance on a com-  
5 prehensive written examination shall constitute not less  
6 than 20 percent of the evaluation criteria for selection of  
7 any officer for full-time attendance at an intermediate  
8 level service school under the jurisdiction of the Secretary.  
9 Such an examination shall be designed so as to require  
10 substantive knowledge of military history, national mili-  
11 tary strategy, service and joint doctrine, and such other  
12 subjects as the Secretary may require. Such an examina-  
13 tion shall be required for each class entering an inter-  
14 mediate level service school after September 30, 2007.

15       “(b) SELECTION FROM DIFFERENT SERVICE.—The  
16 Secretary of a military department, in considering can-  
17 didates for full-time attendance at an intermediate level  
18 service school under the jurisdiction of the Secretary who  
19 are officers of an armed force other than the armed force  
20 that administers that service school, shall consider such  
21 an officer to be qualified for selection for such attendance  
22 if the officer has met all the requirements for attendance  
23 at the equivalent intermediate level service school of that  
24 officer’s own armed force.

1 **“§ 2156. Joint professional military education phase**  
2 **II program of instruction**

3 “(a) PREREQUISITE OF COMPLETION OF JOINT PRO-  
4 FESSONAL MILITARY EDUCATION I PROGRAM OF IN-  
5 STRUCTION.—(1) After September 30, 2009, an officer of  
6 the armed forces may not be accepted for, or assigned to,  
7 a program of instruction designated by the Secretary of  
8 Defense as joint professional military education Phase II  
9 unless the officer has successfully completed a program  
10 of instruction designated by the Secretary of Defense as  
11 joint professional military education Phase I.

12 “(2) The Chairman of the Joint Chiefs of Staff may  
13 grant exceptions to the requirement under paragraph (1).  
14 Such an exception may be granted only on a case-by-case  
15 basis for compelling cause, as determined by the Chair-  
16 man. An officer selected to receive such an exception shall  
17 be required to demonstrate a knowledge of joint matters  
18 and other aspects of the Phase I curriculum that, to the  
19 satisfaction of the Chairman, qualifies the officer to meet  
20 the minimum requirements established for entry into  
21 Phase II instruction without first completing Phase I in-  
22 struction. The number of officers selected to attend an of-  
23 fering of the principal course of instruction at the Joint  
24 Forces Staff College or a senior level service school des-  
25 ignated by the Secretary of Defense as a joint professional  
26 military education institution who have not completed

1 Phase I instruction should comprise no more than 10 per-  
2 cent of the total number of officers selected.

3 “(b) PHASE II REQUIREMENTS.—The Secretary shall  
4 require that the curriculum for Phase II joint professional  
5 military education at any school—

6 “(1) focus on developing joint attitudes and  
7 perspectives and honing joint warfighting skills; and

8 “(2) be structured —

9 “(A) so as to adequately prepare students  
10 to perform effectively in an assignment to a  
11 joint, multiservice organization; and

12 “(B) so that students progress from a  
13 basic knowledge of joint matters learned in  
14 Phase I instruction to the level of expertise nec-  
15 essary for successful performance in the joint  
16 arena.

17 “(c) CURRICULUM CONTENT.—In addition to the  
18 subjects specified in section 2151(a) of this title, the cur-  
19 riculum for Phase II joint professional military education  
20 shall include the following:

21 “(1) National security strategy.

22 “(2) Theater strategy and campaigning.

23 “(3) Joint planning processes and systems.

24 “(4) Joint, interagency, and multinational capa-  
25 bilities and the integration of those capabilities.

1       “(d) STUDENT RATIO; FACULTY RATIO.—(1) For  
 2 courses of instruction in a Phase II program of instruction  
 3 that is offered at senior level service school that has been  
 4 designated by the Secretary of Defense as a joint profes-  
 5 sional military education institution—

6               “(1) the percentage of students enrolled in any  
 7 such course who are officers of the armed force that  
 8 administers the school may not exceed 60 percent,  
 9 with the remaining services proportionally rep-  
 10 resented; and

11              “(2) of the faculty at the school who are active-  
 12 duty officers who provide instruction in such  
 13 courses, the percentage who are officers of the  
 14 armed force that administers the school may not ex-  
 15 ceed 60 percent, with the remaining services propor-  
 16 tionally represented.

17 **“§ 2157. Intermediate and senior level service**  
 18 **schools; Joint Forces Staff College: dura-**  
 19 **tion of principle course of instruction**

20       “(a) SERVICE SCHOOLS.—The duration of the prin-  
 21 cipal course of instruction offered at each intermediate  
 22 level service school and each senior level service school may  
 23 not be less than 10 months of resident instruction. The  
 24 Secretary of Defense may waive the requirement in the  
 25 preceding sentence during a period of war or during a na-



1 tional emergency declared by the President or the Con-  
2 gress.

3 “(b) JOINT FORCES STAFF COLLEGE.—(1) The du-  
4 ration of the principal course of instruction offered at the  
5 Joint Forces Staff College may not be less than 10 weeks  
6 of resident instruction.

7 “(2) In this subsection, the term ‘principal course of  
8 instruction’ means any course of instruction offered at the  
9 Joint Forces Staff College as Phase II joint professional  
10 military education.

11 **“§ 2158. Annual report to Congress**

12 “The Secretary of Defense shall include in the annual  
13 report of the Secretary to Congress under section 113(c)  
14 of this title, for the period covered by the report, the fol-  
15 lowing information (which shall be shown for the Depart-  
16 ment of Defense as a whole and separately for the Army,  
17 Navy, Air Force, and Marine Corps and each reserve com-  
18 ponent):

19 “(1) The number of officers who successfully  
20 completed a joint professional military education  
21 phase II course and were not selected for promotion.

22 “(2) The number of officer students and faculty  
23 members assigned by each service to the professional  
24 military schools of the other services and to the joint  
25 schools.”.

1 (b) TRANSFER OF OTHER PROVISIONS.—Subsections  
2 (b) and (c) of section 663 of title 10, United States Code,  
3 are transferred to section 2151 of such title, as added by  
4 subsection (a), and added at the end thereof.

5 (c) CONFORMING AMENDMENTS.—(1) Section 663 of  
6 such title, as amended by subsection (b), is further  
7 amended—

8 (A) by striking subsections (a) and (e); and

9 (B) by striking “(d) POST-EDUCATION JOINT  
10 DUTY ASSIGNMENTS.—(1) The” and inserting “(a)  
11 JOINT SPECIALTY OFFICERS.—The”;

12 (C) by striking “(2)(A) The Secretary” and in-  
13 serting “(b) OTHER OFFICERS.—(1) The Sec-  
14 retary”;

15 (D) by striking “in subparagraph (B)” and in-  
16 serting “in paragraph (2)”;

17 (E) by striking “(B) The Secretary” and insert-  
18 ing “(2) The Secretary”; and

19 (F) by striking “in subparagraph (B)” and in-  
20 serting “in paragraph (1)”.

21 (2)(A) The heading of such section is amended to  
22 read as follows:

1 **“§ 633. Joint duty assignments after completion of**  
 2 **joint professional military education”.**

3 (B) The item relating to that section in the table of  
 4 sections at the beginning of chapter 38 of such title is  
 5 amended to read as follows:

“633. Joint duty assignments after completion of joint professional military  
 education.”.

6 (d) CONFORMING REPEAL.—Section 1123(b) of the  
 7 National Defense Authorization Act for Fiscal Years 1990  
 8 and 1991 (Public Law 101–189; 103 Stat. 1556) is re-  
 9 pealed.

10 (e) CLERICAL AMENDMENT.—The tables of chapters  
 11 at the beginning of subtitle A, and at the beginning of  
 12 part III of subtitle A, of title 10, United States Code, are  
 13 amended by striking the item relating to chapter 107 and  
 14 inserting the following:

**“106A. Educational Assistance for Persons Enlisting for**  
**Active Duty ..... 2141**  
**“107. Professional Military Education ..... 2151”.**

15 **SEC. 542. RIBBONS TO RECOGNIZE COMPLETION OF JOINT**  
 16 **PROFESSIONAL MILITARY EDUCATION.**

17 (a) IN GENERAL.—(1) Chapter 57 of title 10, United  
 18 States Code, is amended by adding at the end the fol-  
 19 lowing new section:

1   **“§ 1134. Joint professional military education ribbon:**  
 2                               **award**

3           “(a) JPME I.—The Secretary of Defense may award  
 4 a ribbon, of appropriate design, as approved by the Sec-  
 5 retary, to any person who successfully completes a pro-  
 6 gram of instruction approved by the Secretary as quali-  
 7 fying for credit as the Joint Professional Military Edu-  
 8 cation Phase I program of instruction.

9           “(b) JPME II.—The Secretary of Defense may  
 10 award a device, of appropriate design, as approved by the  
 11 Secretary, for wear with the ribbon awarded under sub-  
 12 section (a), to any person who successfully completes a  
 13 program of instruction approved by the Secretary as quali-  
 14 fying for credit as the Joint Professional Military Edu-  
 15 cation Phase II course of instruction.”.

16           (2) The table of sections at the beginning of such  
 17 chapter is amended by adding at the end the following  
 18 new item:

“1134. Joint professional military education ribbon: award.”.

19           (b) EFFECTIVE DATE.—Section 1134 of title 10,  
 20 United States Code, as added by subsection (a), shall  
 21 apply with respect to the successful completion of a joint  
 22 professional military education program of instruction  
 23 after November 29, 1989.

1 **SEC. 543. INCREASE IN NUMBER OF PRIVATE-SECTOR CI-**  
2 **VILIANS WHO MAY BE ENROLLED FOR IN-**  
3 **STRUCTION AT NATIONAL DEFENSE UNIVER-**  
4 **SITY.**

5 Section 2167(a) of title 10, United States Code, is  
6 amended by striking “10” and inserting “20”.

7 **SEC. 544. REQUIREMENT FOR COMPLETION OF PHASE I**  
8 **JOINT PROFESSIONAL MILITARY EDUCATION**  
9 **BEFORE PROMOTION TO COLONEL OR NAVY**  
10 **CAPTAIN.**

11 (a) IN GENERAL.—Chapter 36 of title 10, United  
12 States Code, is amended by inserting after section 619a  
13 the following new section:

14 **“§ 619b. Eligibility for consideration for promotion:**  
15 **joint professional military education re-**  
16 **quired before promotion to colonel or**  
17 **Navy captain; exceptions**

18 “(a) GENERAL RULE.—After September 30, 2007,  
19 an officer on the active-duty list of the Army, Air Force,  
20 or Marine Corps may not be appointed to the grade of  
21 colonel, and an officer on the active-duty list of the Navy  
22 may not be appointed to the grade of captain, unless the  
23 officer has successfully completed a program of instruction  
24 approved by the Secretary as qualifying for credit as the  
25 Joint Professional Military Education Phase I or Phase  
26 II program of instruction.

1       “(b) EXCEPTIONS.—Subject to subsection (c), the  
2 Secretary of Defense may waive subsection (a) in the fol-  
3 lowing circumstances:

4               “(1) When necessary for the good of the serv-  
5 ice.

6               “(2) In the case of an officer whose proposed  
7 selection for promotion is based primarily upon sci-  
8 entific and technical qualifications for which joint re-  
9 quirements do not exist.

10              “(3) In the case of—

11                      “(A) a medical officer, dental officer, vet-  
12 erinary officer, medical service officer, nurse, or  
13 biomedical science officer;

14                      “(B) a chaplain; or

15                      “(C) a judge advocate.

16       “(c) WAIVER TO BE INDIVIDUAL.—A waiver may be  
17 granted under subsection (b) only on a case-by-case basis  
18 in the case of an individual officer.

19       “(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE  
20 WAIVER.—In the case of a waiver under subsection (b)(1),  
21 the Secretary shall provide that the first duty assignment  
22 as a colonel or Navy captain of the officer for whom the  
23 waiver is granted shall be to a program of joint profes-  
24 sional military education.

1       “(e) LIMITATION ON DELEGATION OF WAIVER AU-  
 2 THORITY.—The authority of the Secretary of Defense to  
 3 grant a waiver under subsection (b) (other than under  
 4 paragraph (1) of that subsection) may be delegated only  
 5 to the Deputy Secretary of Defense, an Under Secretary  
 6 of Defense, or an Assistant Secretary of Defense.

7       “(f) REGULATIONS.—The Secretary of Defense shall  
 8 prescribe regulations to carry out this section. The regula-  
 9 tions shall specifically identify for purposes of subsection  
 10 (b)(2) those categories of officers for which selection for  
 11 promotion to colonel or, in the case of the Navy, captain  
 12 is based primarily upon scientific and technical qualifica-  
 13 tions for which joint requirements do not exist.”.

14       (b) CLERICAL AMENDMENT.—The table of sections  
 15 at the beginning of such chapter is amended by adding  
 16 at the end the following new item:

“619b. Eligibility for consideration for promotion: joint professional military  
 education required before promotion to colonel or Navy cap-  
 tain; exceptions.”.

## 17       **Subtitle F—Other Education and** 18               **Training Matters**

### 19       **SEC. 551. COLLEGE FIRST DELAYED ENLISTMENT PRO-** 20               **GRAM.**

21       (a) CODIFICATION AND EXTENSION OF ARMY PRO-  
 22 GRAM.—(1) Chapter 31 of title 10, United States Code,  
 23 is amended by inserting after section 510 the following  
 24 new section:

1 **“§ 511. College First Program**

2       “(a) PROGRAM AUTHORITY.—The Secretary of each  
3 military department may establish a program to increase  
4 the number of, and the level of the qualifications of, per-  
5 sons entering the armed forces as enlisted members by en-  
6 couraging recruits to pursue higher education or voca-  
7 tional or technical training before entry into active service.

8       “(b) DELAYED ENTRY WITH ALLOWANCE FOR  
9 HIGHER EDUCATION.—The Secretary concerned may—

10           “(1) exercise the authority under section 513 of  
11 this title—

12               “(A) to accept the enlistment of a person  
13 as a Reserve for service in the Selected Reserve  
14 or Individual Ready Reserve of a reserve com-  
15 ponent, notwithstanding the scope of the au-  
16 thority under subsection (a) of that section, in  
17 the case of the Army National Guard of the  
18 United States or Air National Guard of the  
19 United States; and

20               “(B) to authorize, notwithstanding the pe-  
21 riod limitation in subsection (b) of that section,  
22 a delay of the enlistment of any such person in  
23 a regular component under that subsection for  
24 the period during which the person is enrolled  
25 in, and pursuing a program of education at, an  
26 institution of higher education, or a program of



1           vocational or technical training, on a full-time  
2           basis that is to be completed within the max-  
3           imum period of delay determined for that per-  
4           son under subsection (c); and

5           “(2) subject to paragraph (2) of subsection (d)  
6           and except as provided in paragraph (3) of that sub-  
7           section, pay an allowance to a person accepted for  
8           enlistment under paragraph (1)(A) for each month  
9           of the period during which that person is enrolled in  
10          and pursuing a program described in paragraph  
11          (1)(B).

12          “(c) MAXIMUM PERIOD OF DELAY.—The period of  
13          delay authorized a person under paragraph (1)(B) of sub-  
14          section (b) may not exceed the 30-month period beginning  
15          on the date of the person’s enlistment accepted under  
16          paragraph (1)(A) of such subsection.

17          “(d) ALLOWANCE.—(1) The monthly allowance paid  
18          under subsection (b)(2) shall be equal to the amount of  
19          the subsistence allowance provided for certain members of  
20          the Senior Reserve Officers’ Training Corps with the cor-  
21          responding number of years of participation under section  
22          209(a) of title 37. The Secretary concerned may supple-  
23          ment that stipend by an amount not to exceed \$225 per  
24          month.

1       “(2) An allowance may not be paid to a person under  
2 this section for more than 24 months.

3       “(3) A member of the Selected Reserve of a reserve  
4 component may be paid an allowance under this section  
5 only for months during which the member performs satis-  
6 factorily as a member of a unit of the reserve component  
7 that trains as prescribed in section 10147(a)(1) of this  
8 title or section 502(a) of title 32. Satisfactory performance  
9 shall be determined under regulations prescribed by the  
10 Secretary concerned.

11       “(4) An allowance under this section is in addition  
12 to any other pay or allowance to which a member of a  
13 reserve component is entitled by reason of participation  
14 in the Ready Reserve of that component.

15       “(e) RECOUPMENT OF ALLOWANCE.—(1) A person  
16 who, after receiving an allowance under this section, fails  
17 to complete the total period of service required of that per-  
18 son in connection with delayed entry authorized for the  
19 person under section 513 shall repay the United States  
20 the amount which bears the same ratio to the total amount  
21 of that allowance paid to the person as the unserved part  
22 of the total required period of service bears to the total  
23 period.

1 “(2) An obligation to repay the United States im-  
2 posed under paragraph (1) is for all purposes a debt owed  
3 to the United States.

4 “(3) A discharge of a person in bankruptcy under  
5 title 11 that is entered less than five years after the date  
6 on which the person was, or was to be, enlisted in the  
7 regular Army pursuant to the delayed entry authority  
8 under section 513 does not discharge that person from a  
9 debt arising under paragraph (1).

10 “(4) The Secretary concerned may waive, in whole  
11 or in part, a debt arising under paragraph (1) in any case  
12 for which the Secretary determines that recovery would  
13 be against equity and good conscience or would be con-  
14 trary to the best interests of the United States.

15 “(f) SPECIAL PAY AND BONUSES.—Upon enlisting in  
16 the regular component of the member’s armed force, a  
17 person who initially enlisted as a Reserve under this sec-  
18 tion may, at the discretion of the Secretary concerned, be  
19 eligible for all regular special pays, bonuses, education  
20 benefits, and loan repayment programs.”.

21 (2) The table of sections at the beginning of such  
22 chapter is amended by inserting after the item relating  
23 to section 510 the following new item:

“511. College First Program”.

24 (b) REPEAL OF ARMY COLLEGE FIRST PROGRAM.—  
25 Section 573 of the National Defense Authorization Act for

1 Fiscal Year 2000 (10 U.S.C. 513 note) is repealed. The  
2 Secretary of the Army shall treat the program under sec-  
3 tion 511 of title 10, United States Code, as added by sub-  
4 section (a), as a continuation of the program under the  
5 section repealed by the preceding sentence.

6 (c) EFFECTIVE DATE.—Section 511 of title 10,  
7 United States Code, as added by subsection (a), and the  
8 repeal made by subsection (b) shall take effect on October  
9 1, 2004.

10 (d) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
11 TIONS.—During fiscal year 2005, obligations incurred  
12 under section 511 of title 10, United States Code, as  
13 added by subsection (a), to pay allowances to persons ac-  
14 cepted for enlistment as a Reserve for service in the Se-  
15 lected Reserve or Individual Ready Reserve of a reserve  
16 component using the expanded authority provided by the  
17 amendment made by subsection (a) may not exceed  
18 \$5,000,000. The authority to pay allowances under such  
19 section shall not be considered to be an expanded author-  
20 ity to the extent that the authority to pay such allowances  
21 was available under section 573 of the National Defense  
22 Authorization Act for Fiscal Year 2000 (10 U.S.C. 513  
23 note), before the repeal of such section by subsection (b).

1 **SEC. 552. STANDARDIZATION OF AUTHORITY TO CONFER**  
2 **DEGREES ON GRADUATES OF COMMUNITY**  
3 **COLLEGE OF THE AIR FORCE WITH AUTHOR-**  
4 **ITY FOR OTHER SCHOOLS OF AIR UNIVER-**  
5 **SITY.**

6 (a) CHANGE IN DEGREE CONFERRING AUTHOR-  
7 ITY.—Section 9315(c) of title 10, United States Code, is  
8 amended—

9 (1) in paragraph (1), by striking “Air Edu-  
10 cation and Training Command of the Air Force”  
11 and inserting “Air University”; and

12 (2) in paragraph (2), by striking “Air Edu-  
13 cation and Training Command of the Air Force”  
14 and inserting “Air University”.

15 (b) CONFORMING AND STYLISTIC AMENDMENTS.—

16 (1) Subsection (a) of section 9317 of such title is  
17 amended—

18 (1) by striking “may confer—” and inserting  
19 “may confer degrees as follows.”;

20 (2) by striking “the” in paragraphs (1), (2),  
21 and (3) after the paragraph designation and insert-  
22 ing “The”;

23 (3) by striking the semicolon at the end of  
24 paragraph (1) and inserting a period;

25 (4) by striking “; and” at the end of paragraph  
26 (2) and inserting a period; and

1           (5) by adding at the end the following new  
2 paragraph:

3           “(4) An associate level degree upon graduates  
4 of the Community College of the Air Force.”.

5           (c) CLERICAL AMENDMENTS.—The heading for such  
6 section, and the item relating to such section in the table  
7 of sections at the beginning of chapter 901 of such title,  
8 are amended by striking the matter between the colon and  
9 the last word.

10 **SEC. 553. CHANGE IN TITLES OF HEADS OF THE NAVAL**  
11 **POSTGRADUATE SCHOOL.**

12           (a) PRESIDENT OF THE SCHOOL.—(1)(A) Section  
13 7042 of title 10, United States Code, is amended by strik-  
14 ing “Superintendent” each place it appears in the text and  
15 inserting “President”.

16           (B) The heading of such section is amended to read  
17 as follows:

18 **“§ 7042. President; assistants”.**

19           (2)(A) Section 7044 of such title is amended by strik-  
20 ing “Superintendent” and inserting “President of the  
21 school”;

22           (B) Sections 7048(a) and 7049(e) of such title are  
23 amended by striking “Superintendent” and inserting  
24 “President”;

1 (b) PROVOST AND ACADEMIC DEAN.—(1)(A) Sub-  
2 section (a) of section 7043 of title 10, United States Code,  
3 is amended to read as follows:

4 “(a) There is at the Naval Postgraduate School the  
5 civilian position of Provost and Academic Dean. The Pro-  
6 vost and Academic Dean shall be appointed, to serve for  
7 periods of not more than five years, by the Secretary of  
8 the Navy after consultation with the Naval Postgraduate  
9 School Board of Advisors and consideration of the rec-  
10 ommendation of the leadership and faculty of the Naval  
11 Postgraduate School.”.

12 (B) Subsection (b) of such section is amended by  
13 striking “Academic Dean” and inserting “Provost and  
14 Academic Dean”.

15 (C) The heading of such section is amended to read  
16 as follows:

17 **“§ 7043. Provost and Academic Dean”.**

18 (2) Section 5102(c)(10) of title 5, United States  
19 Code, is amended by striking “Academic Dean” and in-  
20 serting “Provost and Academic Dean”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 at the beginning of chapter 605 of such title is amended  
23 by striking the items related to sections 7042 and 7043  
24 and inserting the following new items:

“7042. President; assistants.

“7043. Provost and Academic Dean.”.

1 **SEC. 554. INCREASE FROM TWO YEARS TO THREE YEARS IN**  
2 **PERIOD FOR WHICH EDUCATIONAL LEAVE OF**  
3 **ABSENCE MAY BE AUTHORIZED.**

4 Section 708(a) of title 10, United States Code, is  
5 amended by striking “two years” and inserting “three  
6 years”.

7 **SEC. 555. CORRECTION TO DISPARATE TREATMENT OF DIS-**  
8 **ABILITIES SUSTAINED DURING ACCESSION**  
9 **TRAINING.**

10 (a) **ELIGIBILITY OF ACADEMY CADETS AND MID-**  
11 **SHIPMEN FOR DISABILITY RETIRED PAY.**—(1) Section  
12 1217 of title 10, United States Code, is amended to read  
13 as follows:

14 **“§ 1217. Cadets, midshipmen, and aviation cadets: ap-**  
15 **plicability of chapter**

16 “(a) This chapter applies to cadets at the United  
17 States Military Academy, the United States Air Force  
18 Academy, and the United States Coast Guard Academy  
19 and midshipmen of the Navy, but only with respect to  
20 physical disabilities incurred after the date of the enact-  
21 ment of the National Defense Authorization Act for Fiscal  
22 Year 2005.

23 “(b) Monthly cadet pay and monthly midshipman pay  
24 under section 203(c) of title 37 shall be considered to be  
25 basic pay for purposes of this chapter and the computation



1 of retired pay and severance and separation pay to which  
 2 entitlement is established under this chapter.”.

3 (2) The item related to section 1217 in the table of  
 4 sections at the beginning of chapter 61 of such title is  
 5 amended to read as follows:

“1217. Cadets, midshipmen, and aviation cadets: applicability of chapter.”.

6 (b) MEDICAL AND DENTAL CARE FOR SENIOR ROTC  
 7 MEMBERS AND APPLICANTS.—(1) Chapter 55 of title 10,  
 8 United States Code, is amended by inserting after section  
 9 1074a the following new section:

10 **“§ 1074b. Medical and dental care: members of, and**  
 11 **designated applicants for membership in,**  
 12 **Senior ROTC**

13 “(a) Under joint regulations prescribed by the admin-  
 14 istering Secretaries, the following persons are entitled to  
 15 the benefits described in subsection (b):

16 “(1) A member of, and a designated applicant  
 17 for membership in, Senior ROTC who incurs or ag-  
 18 gravates an injury, illness, or disease in the line of  
 19 duty while performing duties pursuant to section  
 20 2109 of this title.

21 “(2) A member of, and a designated applicant  
 22 for membership in, Senior ROTC who incurs or ag-  
 23 gravates an injury, illness, or disease while traveling  
 24 directly to or from the place at which that member

1 or applicant is to perform or has performed duties  
2 pursuant to section 2109 of this title.

3 “(3) Each member of, and each designated ap-  
4 plicant for membership in, Senior ROTC who incurs  
5 or aggravates an injury, illness, or disease in the line  
6 of duty while remaining overnight immediately be-  
7 fore the commencement of duties performed pursu-  
8 ant to section 2109 of this title or, while remaining  
9 overnight, between successive periods of performing  
10 duties pursuant to section 2109 of this title, at or  
11 in the vicinity of the site of the duties performed  
12 pursuant to section 2109 of this title, if the site is  
13 outside reasonable commuting distance from the res-  
14 idence of the member or designated applicant.

15 “(b) A person described in subsection (a) is entitled  
16 to—

17 “(1) the medical and dental care appropriate  
18 for the treatment of the injury, illness, or disease of  
19 that person until the resulting disability cannot be  
20 materially improved by further hospitalization or  
21 treatment; and

22 “(2) subsistence during hospitalization.

23 “(c) A member of, and each designated applicant for  
24 membership in, Senior ROTC is not entitled to benefits  
25 under subsection (b) if the injury, illness, or disease or

1   aggravation of an injury, illness, or disease of that person  
 2   described in subsection (a)(2) is the result of the gross  
 3   negligence or the misconduct of the member or applicant  
 4   for membership in Senior ROTC.

5       “(d) In this section, the term ‘Senior ROTC’ means  
 6   a program under chapter 103 of this title.”.

7       (2) Section 1074b of title 10, United States Code,  
 8   as added by paragraph (1), shall apply with respect to in-  
 9   juries, illnesses, and diseases incurred or aggravated on  
 10   or after the date of the enactment of this Act.

11       (3) The table of sections at the beginning of chapter  
 12   55 of such title is amended by inserting after the item  
 13   relating to section 1074a the following new item:

“1074b. Medical and dental care: members of, and designated applicants for  
 membership in, Senior ROTC.”.

14   **SEC. 556. PRAYER AT MILITARY SERVICE ACADEMY ACTIVI-**  
 15                                   **TIES.**

16       (a) **AUTHORITY OF SUPERINTENDENT.**—The Super-  
 17   intendent of a service academy may have in effect such  
 18   policy as the Superintendent considers appropriate with  
 19   respect to the offering of a voluntary, nondenominational  
 20   prayer at an otherwise authorized activity of the academy,  
 21   subject to such limitations as the President may prescribe.

22       (b) **SERVICE ACADEMIES.**—For purposes of this sec-  
 23   tion, the term “service academy” means any of the fol-  
 24   lowing:

1 (1) The United States Military Academy.

2 (2) The United States Naval Academy.

3 (3) The United States Air Force Academy.

4 **SEC. 557. REVISION TO CONDITIONS ON SERVICE OF OFFI-**  
5 **CERS AS SERVICE ACADEMY SUPERINTEND-**  
6 **ENTS.**

7 (a) REPEAL OF REQUIREMENT THAT OFFICERS RE-  
8 TIRE AFTER SERVICE AS SUPERINTENDENT.—Sections  
9 3921, 6371, and 8921 of title 10, United States Code,  
10 are repealed.

11 (b) MINIMUM THREE-YEAR TOUR OF DUTY AS SU-  
12 PERINTENDENT.—

13 (1) MILITARY ACADEMY.—Section 4333a of  
14 such title is amended to read as follows:

15 **“§ 4333a. Superintendent: length of assignment**

16 “An officer who is detailed to the position of Super-  
17 intendent of the Academy shall be so detailed for a period  
18 of not less than three years. In any case in which an offi-  
19 cer serving as Superintendent is reassigned or retires be-  
20 fore having completed three years service as Super-  
21 intendent, or otherwise leaves that position (other than  
22 due to death) without having completed three years service  
23 in that position, the Secretary of the Army shall submit  
24 to Congress notice that such officer left the position of  
25 Superintendent without having completed three years

1 service in that position, together with a statement of the  
2 reasons why that officer did not complete three years serv-  
3 ice in that position.”.

4 (2) NAVAL ACADEMY.—Section 6951a of such  
5 title is amended—

6 (A) by striking the second sentence of sub-  
7 section (b); and

8 (B) by adding at the end the following new  
9 subsection:

10 “(c) An officer who is detailed to the position of Su-  
11 perintendent shall be so detailed for a period of not less  
12 than three years. In any case in which an officer serving  
13 as Superintendent is reassigned or retires before having  
14 completed three years service as Superintendent, or other-  
15 wise leaves that position (other than due to death) without  
16 having completed three years service in that position, the  
17 Secretary of the Navy shall submit to Congress notice that  
18 such officer left the position of Superintendent without  
19 having completed three years service in that position, to-  
20 gether with a statement of the reasons why that officer  
21 did not complete three years service in that position.”.

22 (3) AIR FORCE ACADEMY.—Section 9333a of  
23 such title is amended to read as follows:

1 **“§ 9333a. Superintendent: length of assignment**

2       “An officer who is detailed to the position of Super-  
 3 intendent of the Academy shall be so detailed for a period  
 4 of not less than three years. In any case in which an offi-  
 5 cer serving as Superintendent is reassigned or retires be-  
 6 fore having completed three years service as Super-  
 7 intendent, or otherwise leaves that position (other than  
 8 due to death) without having completed three years service  
 9 in that position, the Secretary of the Air Force shall sub-  
 10 mit to Congress notice that such officer left the position  
 11 of Superintendent without having completed three years  
 12 service in that position, together with a statement of the  
 13 reasons why that officer did not complete three years serv-  
 14 ice in that position.”.

15       (b) CLERICAL AMENDMENTS.—

16           (1) The table of sections at the beginning of  
 17 chapter 367 of such title is amended by striking the  
 18 item relating to section 3921.

19           (2) The table of sections at the beginning of  
 20 chapter 403 of such title is amended to read as fol-  
 21 lows:

“4333a. Superintendent: length of assignment.”

22           (3) The table of sections at the beginning of  
 23 chapter 573 of such title is amended by striking the  
 24 item relating to section 6371.

1           (4) The table of sections at the beginning of  
2           chapter 867 of such title is amended by striking the  
3           item relating to section 8921.

4           (5) The table of sections at the beginning of  
5           chapter 903 of such title is amended to read as fol-  
6           lows:

“9333a. Superintendent: length of assignment.”

7   **SEC. 558. CODIFICATION OF PROHIBITION ON IMPOSITION**  
8                           **OF CERTAIN CHARGES AND FEES AT THE**  
9                           **SERVICE ACADEMIES.**

10       (a) UNITED STATES MILITARY ACADEMY.—(1)  
11 Chapter 403 of title 10, United States Code, is amended  
12 by adding at the end the following new section:

13   **“§ 4359. Cadets: charges and fees for attendance; limi-**  
14                           **tation**

15       “(a) PROHIBITION.—Except as provided in sub-  
16 section (b), no charge or fee for tuition, room, or board  
17 for attendance at the Academy may be imposed unless the  
18 charge or fee is specifically authorized by a law enacted  
19 after October 5, 1994.

20       “(b) EXCEPTION.—The prohibition specified in sub-  
21 section (a) does not apply with respect to any item or serv-  
22 ice provided to cadets for which a charge or fee is imposed  
23 as of October 5, 1994. The Secretary of Defense shall no-  
24 tify Congress of any change made by the Academy in the

1 amount of a charge or fee authorized under this sub-  
2 section.”.

3 (2) The table of sections at the beginning of such  
4 chapter is amended by adding at the end the following  
5 new item:

“4359. Cadets: charges and fees for attendance; limitation.”.

6 (b) UNITED STATES NAVAL ACADEMY.—(1) Chapter  
7 603 of title 10, United States Code, is amended by adding  
8 at the end the following new section:

9 **“§ 6978. Midshipmen: charges and fees for attend-**  
10 **ance; limitation**

11 “(a) PROHIBITION.—Except as provided in sub-  
12 section (b), no charge or fee for tuition, room, or board  
13 for attendance at the Naval Academy may be imposed un-  
14 less the charge or fee is specifically authorized by a law  
15 enacted after October 5, 1994.

16 “(b) EXCEPTION.—The prohibition specified in sub-  
17 section (a) does not apply with respect to any item or serv-  
18 ice provided to midshipmen for which a charge or fee is  
19 imposed as of October 5, 1994. The Secretary of Defense  
20 shall notify Congress of any change made by the Naval  
21 Academy in the amount of a charge or fee authorized  
22 under this subsection.”.



1       (2) The table of sections at the beginning of such  
2 chapter is amended by adding at the end the following  
3 new item:

“4359. Midshipmen: charges and fees for attendance; limitation.”.

4       (c) UNITED STATES AIR FORCE ACADEMY.—(1)  
5 Chapter 903 of title 10, United States Code, is amended  
6 by adding at the end the following new section:

7   **“§ 9359. Cadets: charges and fees for attendance; limi-**  
8                   **tation**

9       “(a) PROHIBITION.—Except as provided in sub-  
10 section (b), no charge or fee for tuition, room, or board  
11 for attendance at the Academy may be imposed unless the  
12 charge or fee is specifically authorized by a law enacted  
13 after October 5, 1994.

14       “(b) EXCEPTION.—The prohibition specified in sub-  
15 section (a) does not apply with respect to any item or serv-  
16 ice provided to cadets for which a charge or fee is imposed  
17 as of October 5, 1994. The Secretary of Defense shall no-  
18 tify Congress of any change made by the Academy in the  
19 amount of a charge or fee authorized under this sub-  
20 section.”.

21       (2) The table of sections at the beginning of such  
22 chapter is amended by adding at the end the following  
23 new item:

“9359. Cadets: charges and fees for attendance; limitation.”.

1 (d) UNITED STATES COAST GUARD ACADEMY.—(1)  
 2 Chapter 9 of title 14, United States Code, is amended by  
 3 adding at the end the following new section:

4 **“§ 197. Cadets: charges and fees for attendance; limi-**  
 5 **tation**

6 “(a) PROHIBITION.—Except as provided in sub-  
 7 section (b), no charge or fee for tuition, room, or board  
 8 for attendance at the Academy may be imposed unless the  
 9 charge or fee is specifically authorized by a law enacted  
 10 after October 5, 1994.

11 “(b) EXCEPTION.—The prohibition specified in sub-  
 12 section (a) does not apply with respect to any item or serv-  
 13 ice provided to cadets for which a charge or fee is imposed  
 14 as of October 5, 1994. The Secretary of Homeland Secu-  
 15 rity shall notify Congress of any change made by the  
 16 Academy in the amount of a charge or fee authorized  
 17 under this subsection.”.

18 (2) The table of sections at the beginning of such  
 19 chapter is amended by adding at the end the following  
 20 new item:

“197. Cadets: charges and fees for attendance; limitation.”.

21 (e) UNITED STATES MERCHANT MARINE ACAD-  
 22 EMY.—Section 1303 of the Merchant Marine Act, 1936  
 23 (46 U.S.C. App. 1295b), is amended by adding at the end  
 24 the following new subsection:

1       “(j) LIMITATION ON CHARGES AND FEES FOR AT-  
2 TENDANCE.—

3               “(1) Except as provided in paragraph (2), no  
4 charge or fee for tuition, room, or board for attend-  
5 ance at the Academy may be imposed unless the  
6 charge or fee is specifically authorized by a law en-  
7 acted after October 5, 1994.

8               “(2)The prohibition specified in paragraph (1)  
9 does not apply with respect to any item or service  
10 provided to cadets for which a charge or fee is im-  
11 posed as of October 5, 1994. The Secretary of  
12 Transportation shall notify Congress of any change  
13 made by the Academy in the amount of a charge or  
14 fee authorized under this paragraph.”.

15       (f) REPEAL OF CODIFIED PROVISION.—Section 553  
16 of the National Defense Authorization Act for Fiscal Year  
17 1995 (Public Law 103–337; 10 U.S.C. 4331 note) is re-  
18 pealed.

19 **SEC. 559. QUALIFICATIONS OF THE DEAN OF THE FACULTY**  
20 **OF UNITED STATES AIR FORCE ACADEMY.**

21       Section 9335(a) of title 10, United States Code, is  
22 amended by inserting before the period at the end of the  
23 second sentence the following: “, except that, if the Dean  
24 is not an officer on active duty, the Dean shall be a retired  
25 officer or former officer, and a person may not be ap-

1 pointed or assigned as Dean unless that person holds the  
2 highest academic degree in that person's academic field".

3 **SEC. 560A. BOARD OF VISITORS OF UNITED STATES AIR**  
4 **FORCE ACADEMY.**

5 Section 9355 of title 10, United States Code, is  
6 amended to read as follows:

7 **"§ 9355. Board of Visitors**

8 "(a) A Board of Visitors to the Academy is con-  
9 stituted annually. The Board consists of the following  
10 members:

11 "(1) Six persons designated by the President.

12 "(2) Four persons designated by the Speaker of  
13 the House of Representatives, three of whom shall  
14 be members of the House of Representatives and the  
15 fourth of whom may not be a member of the House  
16 of Representatives.

17 "(3) Three persons designated by the Vice  
18 President or the President pro tempore of the Sen-  
19 ate, two of whom shall be members of the Senate  
20 and the third of whom may not be a member of the  
21 Senate.

22 "(4) The chairman of the Committee on Armed  
23 Services of the House of Representatives, or his des-  
24 ignee.

1           “(5) The chairman of the Committee on Armed  
2       Services of the Senate, or his designee.

3       “(b)(1) The persons designated by the President  
4       serve for three years each except that any member whose  
5       term of office has expired shall continue to serve until his  
6       successor is designated. The President shall designate per-  
7       sons each year to succeed the members designated by the  
8       President whose terms expire that year.

9       “(2) At least two of the members designated by the  
10      President shall be graduates of the Academy.

11      “(c)(1) If a member of the Board dies or resigns or  
12      is terminated as a member of the board under paragraph  
13      (2), a successor shall be designated for the unexpired por-  
14      tion of the term by the official who designated the mem-  
15      ber.

16      “(2) If a member of the Board fails to attend two  
17      successive Board meetings, except in a case in which an  
18      absence is approved in advance, for good cause, by the  
19      Board chairman, such failure shall be grounds for termi-  
20      nation from membership on the Board. A person des-  
21      ignated for membership on the Board shall be provided  
22      notice of the provisions of this paragraph at the time of  
23      such designation.

24      “(d) The Board should meet at least four times a  
25      year, with at least two of those meetings at the Academy.

1 The Board or its members may make other visits to the  
2 Academy in connection with the duties of the Board.  
3 Board meetings should last at least one full day. Board  
4 members shall have access to the Academy grounds and  
5 the cadets, faculty, staff, and other personnel of the Acad-  
6 emy for the purposes of the duties of the Board.

7 “(e)(1) The Board shall inquire into the morale, dis-  
8 cipline, and social climate, the curriculum, instruction,  
9 physical equipment, fiscal affairs, academic methods, and  
10 other matters relating to the Academy that the Board de-  
11 cides to consider.

12 “(2) The Secretary of the Air Force and the Super-  
13 intendent of the Academy shall provide the Board candid  
14 and complete disclosure, consistent with applicable laws  
15 concerning disclosure of information, of all institutional  
16 problems.

17 “(3) The Board shall recommend appropriate action.

18 “(f) Within 30 days after any meeting of the Board,  
19 the Board shall submit a written report concurrently to  
20 the Secretary of Defense, through the Secretary of the Air  
21 Force, and to the Committee on Armed Services of the  
22 Senate and the Committee on Armed Services of the  
23 House of Representatives with its views and recommenda-  
24 tions pertaining to the Academy.

1 “(g) Upon approval by the Secretary, the Board may  
2 call in advisers for consultation.

3 “(h) While performing duties as a member of the  
4 Board, each member of the Board and each adviser shall  
5 be reimbursed under Government travel regulations for  
6 travel expenses.”.

7 **SEC. 560B. ESTABLISHMENT OF COLLEGE FINANCIAL AS-**  
8 **SISTANCE PROGRAM FOR DISTRICT OF CO-**  
9 **LUMBIA NATIONAL GUARD.**

10 (a) **AUTHORITY.**—Under regulations prescribed by  
11 the Secretary of Defense, the Secretary concerned may,  
12 in recognition of the unique position of the District of Co-  
13 lumbia in the Federal system, provide financial assistance  
14 to eligible members of the National Guard of the District  
15 of Columbia for expenses of such a member while enrolled  
16 in an approved institution of higher education in a degree,  
17 certificate, or other program (including a program of  
18 study abroad approved for credit by the institution of  
19 higher education) leading to a recognized educational cre-  
20 dential at the institution of higher education. Any such  
21 assistance may be provided only during the program appli-  
22 cability period specified in subsection (i).

23 (b) **AUTHORITY SUBJECT TO AVAILABILITY OF AP-**  
24 **PROPRIATIONS.**—The authority provided in subsection (a)

1 is subject to the availability of appropriations for that pur-  
2 pose.

3 (c) ELIGIBILITY.—To be eligible for financial assist-  
4 ance under this section, a member of the National Guard  
5 of the District of Columbia must—

6 (1) be a member of the National Guard of the  
7 District of Columbia for not less than the 12 con-  
8 secutive months preceding the commencement of the  
9 tuition assistance and continue to be such a member  
10 while receiving such assistance;

11 (2) agree to serve one year in the National  
12 Guard of the District of Columbia for each academic  
13 year of assistance provided;

14 (3) be enrolled or accepted for enrollment in a  
15 program of education referred to in subsection (a) at  
16 an institution of higher education; and

17 (4) if already enrolled, maintain satisfactory  
18 progress in the course of study the member is pur-  
19 suing in accordance with section 484(c) of the High-  
20 er Education Act of 1965 (20 U.S.C. 1091(c)).

21 (d) COVERED EXPENSES.—Expenses for which fi-  
22 nancial assistance may be provided under this section are  
23 the following:

24 (1) Tuition and fees charged by an approved in-  
25 stitution of higher education involved.



1           (2) The cost of books.

2           (3) Laboratory expenses.

3           (e) AMOUNT.—(1) The amount of financial assistance  
4 provided to a member of the National Guard of the Dis-  
5 trict of Columbia under this section shall be prescribed  
6 by the Secretary concerned, but may not exceed \$2,500  
7 for any academic year. The Secretary concerned shall pro-  
8 rate assistance under this section for members who pursue  
9 a program of education on less than a full-time basis.

10          (2) A member may not receive more than \$12,500  
11 under this section.

12          (f) CONSTRUCTION.—Nothing in this section shall be  
13 construed to require an institution of higher education to  
14 alter the institution’s admissions policies or standards in  
15 any manner to enable a member of the National Guard  
16 of the District of Columbia to enroll in the institution.

17          (g) DEFINITIONS.—In this section:

18               (1) The term “approved institution of higher  
19 education” means an institution of higher education  
20 (as defined in section 101 of the Higher Education  
21 Act of 1965 (20 U.S.C. 1001)) that—

22                       (A) is eligible to participate in the student  
23 financial assistance programs under title IV of  
24 the Higher Education Act of 1965 (20 U.S.C.  
25 1070 et seq.); and

1 (B) has entered into an agreement with  
2 the Secretary concerned containing such condi-  
3 tions as the Secretary may specify, including a  
4 requirement that the institution use the funds  
5 made available under this section to supplement  
6 and not supplant assistance that otherwise  
7 would be provided to eligible students from the  
8 District of Columbia National Guard.

9 (2) SECRETARY CONCERNED.—The term “Sec-  
10 retary concerned” means—

11 (A) the Secretary of the Army, in the case  
12 of the Army National Guard of the District of  
13 Columbia; and

14 (B) the Secretary of the Air Force, in the  
15 case of the Air National Guard of the District  
16 of Columbia.

17 (h) ANNUAL REPORT.—At the close of each year dur-  
18 ing which the program under this section is in effect, the  
19 Secretary of Defense shall submit to the congressional de-  
20 fense committees a report on the effectiveness of the pro-  
21 gram in improving recruiting and retention for the Dis-  
22 trict of Columbia National Guard. Each such report shall  
23 include such recommendations for changes in law or policy  
24 as the Secretary considers appropriate. In the first such  
25 report, the Secretary shall include an analysis of means

1 for improving the effectiveness as a recruitment and reten-  
2 tion incentive of any program providing tuition assistance  
3 for members of the District of Columbia National Guard  
4 in existence as of the date of the enactment of this Act.

5 (i) PROGRAM APPLICABILITY PERIOD.—Financial as-  
6 sistance may be provided under this section to eligible  
7 members of the National Guard of the District of Colum-  
8 bia for periods of instruction that begin during the three-  
9 year period beginning on the date of the enactment of this  
10 Act.

11 **Subtitle G—Medals and Decora-**  
12 **tions and Special Promotions**  
13 **and Appointments**

14 **SEC. 561. SEPARATE MILITARY CAMPAIGN MEDALS TO REC-**  
15 **OGNIZE SERVICE IN OPERATION ENDURING**  
16 **FREEDOM AND SERVICE IN OPERATION**  
17 **IRAQI FREEDOM.**

18 (a) REQUIREMENT.—The President shall establish a  
19 campaign medal specifically to recognize service by mem-  
20 bers of the uniformed services in Operation Enduring  
21 Freedom and a separate campaign medal specifically to  
22 recognize service by members of the uniformed services in  
23 Operation Iraqi Freedom.

24 (b) ELIGIBILITY.—Subject to such limitations as may  
25 be prescribed by the President, eligibility for a campaign

1 medal established pursuant to subsection (a) shall be set  
2 forth in regulations to be prescribed by the Secretary con-  
3 cerned (as defined in section 101 of title 10, United States  
4 Code). In the case of regulations prescribed by the Secre-  
5 taries of the military departments, the regulations shall  
6 be subject to approval by the Secretary of Defense and  
7 shall be uniform throughout the Department of Defense.

8 **SEC. 562. ELIGIBILITY OF ALL UNIFORMED SERVICES PER-**  
9 **SONNEL FOR NATIONAL DEFENSE SERVICE**  
10 **MEDAL.**

11 The President shall revise the criteria for eligibility  
12 for the decoration known as the National Defense Service  
13 Medal so as to extend such eligibility, with respect to serv-  
14 ice on or after September 11, 2001, to members of all  
15 of the uniformed services.

16 **SEC. 563. AUTHORITY TO APPOINT BRIGADIER GENERAL**  
17 **CHARLES E. YEAGER, UNITED STATES AIR**  
18 **FORCE (RETIRED), TO THE GRADE OF MAJOR**  
19 **GENERAL ON THE RETIRED LIST.**

20 The President is authorized to appoint, by and with  
21 the advice and consent of the Senate, Brigadier General  
22 Charles E. Yeager, United States Air Force (retired), to  
23 the grade of major general on the retired list of the Air  
24 Force. Any such appointment shall not affect the retired  
25 pay or other benefits of Charles E. Yeager or any benefits

1 to which any other person is or may become entitled based  
2 upon his service.

3 **SEC. 564. POSTHUMOUS COMMISSION OF WILLIAM MITCH-**  
4 **ELL IN THE GRADE OF MAJOR GENERAL IN**  
5 **THE ARMY.**

6 (a) **AUTHORITY.**—The President, by and with the ad-  
7 vice and consent of the Senate, may issue posthumously  
8 a commission as major general, United States Army, in  
9 the name of the late William Mitchell, formerly a colonel,  
10 United States Army, who resigned his commission on Feb-  
11 ruary 1, 1926.

12 (b) **DATE OF COMMISSION.**—A commission issued  
13 under subsection (a) shall issue as of the date of the death  
14 of William Mitchell on February 19, 1936.

15 (c) **PROHIBITION OF BENEFITS.**—No person is enti-  
16 tled to receive any bonus, gratuity, pay, allowance, or  
17 other financial benefit by reason of the enactment of this  
18 section.

19 **SEC. 565. REQUIREMENTS FOR AWARD OF COMBAT INFAN-**  
20 **TRYMAN BADGE AND COMBAT MEDICAL**  
21 **BADGE WITH RESPECT TO SERVICE IN**  
22 **KOREA AFTER JULY 28, 1953.**

23 (a) **STANDARDIZATION OF REQUIREMENTS WITH**  
24 **OTHER GEOGRAPHIC AREAS.**—(1) Chapter 357 of title

1 10, United States Code, is amended by adding at the end  
2 the following new section:

3 **“§ 3757. Korean defense service: Combat Infantryman**  
4 **Badge; Combat Medical Badge**

5 “The Secretary of the Army shall provide that, with  
6 respect to service in the Republic of Korea after July 28,  
7 1953, eligibility of a member of the Army for the Combat  
8 Infantryman Badge or the Combat Medical Badge shall  
9 be met under criteria and eligibility requirements that, as  
10 nearly as practicable, are identical to those applicable, at  
11 the time of such service in the Republic of Korea, to serv-  
12 ice elsewhere without regard to specific location or special  
13 circumstances. In particular, such eligibility shall be  
14 established—

15 “(1) without any requirement for service by the  
16 member in an area designated as a ‘hostile fire area’  
17 (or by any similar designation) or that the member  
18 have been authorized hostile fire pay;

19 “(2) without any requirement for a minimum  
20 number of instances (in excess of one) in which the  
21 member was engaged with the enemy in active  
22 ground combat involving an exchange of small arms  
23 fire; and

24 “(3) without any requirement for personal rec-  
25 ommendation or approval by commanders in the

1 member's chain of command other than is generally  
2 applicable for service at locations outside the Repub-  
3 lic of Korea.”.

4 (2) The table of sections at the beginning of such  
5 chapter is amended by adding at the end the following  
6 new item:

“3757. Korean defense service: Combat Infantryman Badge; Combat Medical  
Badge.”.

7 (b) APPLICABILITY TO SERVICE BEFORE DATE OF  
8 ENACTMENT.—The Secretary of the Army shall establish  
9 procedures to provide for the implementation of section  
10 3757 of title 10, United States Code, as added by sub-  
11 section (a), with respect to service in the Republic of  
12 Korea during the period between July 28, 1953, and the  
13 date of the enactment of this Act. Such procedures shall  
14 include a requirement for submission of an application for  
15 award of a badge under that section with respect to service  
16 before the date of the enactment of this Act and the fur-  
17 nishing of such information as the Secretary may specify.

18 **SEC. 566. ARMY COMBAT RECOGNITION RIBBON.**

19 (a) REQUIREMENT SIMILAR TO THAT FOR NAVY  
20 COMBAT ACTION RIBBON .—(1) Chapter 357 of title 10,  
21 United States Code, is amended by adding at the end the  
22 following new section:

1 **“§ 3757. Combat recognition ribbon**

2       “(a) REQUIREMENT.—The Secretary of the Army  
3 shall establish a combat recognition ribbon to recognize  
4 participation by members of the Army in combat. The Sec-  
5 retary shall award the combat recognition ribbon to each  
6 member of the Army who meets the criteria for that rib-  
7 bon based upon service performed after August 1, 1990.

8       “(b) CRITERIA FOR AWARD.—The Secretary shall es-  
9 tablish the criteria for award of the combat recognition  
10 ribbon. To the maximum extent practicable, the criteria  
11 for the award of such ribbon shall be based upon, and  
12 be similar to, the criteria for award of the Navy Combat  
13 Action Ribbon, including any special criteria for service  
14 during a particular period of time or in a specific location.

15       “(c) LIMITATION.—The combat recognition ribbon  
16 may not be awarded to a member of the Army with respect  
17 to the same period of service as service for which the mem-  
18 ber was awarded the Combat Infantryman Badge or the  
19 Combat Medic Badge.”.

20       (2) The table of sections at the beginning of such  
21 chapter is amended by adding at the end the following  
22 new item:

“3757. Combat recognition ribbon.”.

23       (b) IMPLEMENTATION FOR SERVICE BEFORE DATE  
24 OF ENACTMENT.—The Secretary of the Army shall estab-  
25 lish procedures to provide for the implementation of sec-



tion 3757 of title 10, United States Code, as added by subsection (a), with respect to service during the period beginning on August 1, 1990, and ending on the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a ribbon under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify. Such procedures shall be established not later than 180 days after the date of the enactment of this Act.

## **Subtitle H—Military Justice Matters**

### **SEC. 571. REVIEW ON HOW SEXUAL OFFENSES ARE COVERED BY UNIFORM CODE OF MILITARY JUSTICE.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall review the Uniform Code of Military Justice and the Manual for Courts-Martial with the objective of determining what changes are required to improve the ability of the military justice system to address issues relating to sexual assault and to conform the Uniform Code of Military Justice and the Manual for Courts-Martial more closely to other Federal laws and regulations that address such issues.

1 (b) REPORT.—Not later than March 1, 2005, the  
 2 Secretary shall submit to the Committee on Armed Serv-  
 3 ices of the Senate and the Committee on Armed Services  
 4 of the House of Representatives a report on the review  
 5 carried out under subsection (a). The report shall include  
 6 the recommendations of the Secretary for revisions to the  
 7 Uniform Code of Military Justice and, for each such revi-  
 8 sion, the rationale behind that revision.

9 **SEC. 572. SERVICE TIME NOT LOST WHEN CONFINED IN**  
 10 **CONNECTION WITH TRIAL IF CONFINEMENT**  
 11 **EXCUSED AS UNAVOIDABLE.**

12 Section 972 of title 10, United States Code, is  
 13 amended in each of subsections (a)(3) and (b)(3) by in-  
 14 serting after “the trial” the following: “, unless such con-  
 15 finement is excused as unavoidable”.

16 **SEC. 573. CLARIFICATION OF AUTHORITY OF MILITARY**  
 17 **LEGAL ASSISTANCE COUNSEL TO PROVIDE**  
 18 **MILITARY LEGAL ASSISTANCE WITHOUT RE-**  
 19 **GARD TO LICENSING REQUIREMENTS.**

20 Section 1044 of title 10, United States Code, is  
 21 amended by adding at the end the following new sub-  
 22 section:

23 “(e)(1) Notwithstanding any law regarding the licen-  
 24 sure of attorneys, a judge advocate or civilian attorney  
 25 who is authorized to provide military legal assistance is

1 authorized to provide that assistance in any jurisdiction,  
 2 subject to such regulations as may be prescribed by the  
 3 Secretary concerned.

4 “(2) In this subsection, the term ‘military legal as-  
 5 sistance’ includes—

6 “(A) legal assistance provided under this sec-  
 7 tion; and

8 “(B) legal assistance contemplated by sections  
 9 1044a, 1044b, 1044c, and 1044d of this title.”.

## 10 **Subtitle I—Management and** 11 **Administrative Matters**

### 12 **SEC. 581. THREE-YEAR EXTENSION OF LIMITATION ON RE-** 13 **DUCTIONS OF PERSONNEL OF AGENCIES RE-** 14 **SPONSIBLE FOR REVIEW AND CORRECTION** 15 **OF MILITARY RECORDS.**

16 Section 1559(a) of title 10, United States Code, is  
 17 amended by striking “During fiscal years 2003, 2004, and  
 18 2005,” and inserting “Before October 1, 2008,”.

### 19 **SEC. 582. STAFFING AND FUNDING FOR DEFENSE PRIS-** 20 **ONER OF WAR/MISSING PERSONNEL OFFICE** 21 **(DPMO).**

22 (a) MINIMUM LEVEL OF STAFFING.—Subparagraph  
 23 (B) of section 1501(a)(5) of title 10, United States Code,  
 24 is amended to read as follows:

25 “(B)(i) For any fiscal year—

1           “(I) the number of full-time Department of De-  
2       fense personnel permanently assigned or detailed to  
3       the office shall be not less than 46 members of the  
4       armed forces and not less than 69 civilian employees  
5       of the Department of Defense; and

6           “(II) the number of permanent positions au-  
7       thorized for the office shall be not less than 46 posi-  
8       tions for members of the armed forces and not less  
9       than 69 positions for civilian employees.

10          “(ii) No reductions below the numbers assigned or  
11       authorized under clause (i) may be made unless expressly  
12       authorized by law.

13          “(iii) If for any reason the number of military or civil-  
14       ian personnel assigned to the office should fall below the  
15       required level under clause (i)(I), the Secretary of Defense  
16       shall promptly notify the Committees on Armed Services  
17       of the Senate and House of Representatives of the number  
18       of personnel so assigned and of the Secretary’s plan to  
19       restore the staffing levels of the office to at least the re-  
20       quired minimums under clause (i). The Secretary shall  
21       publish such notice and plan in the Federal Register.”.

22          (b) MINIMUM LEVEL OF FUNDING.—Subparagraph  
23       (C) of such section is amended to read as follows:

1 “(C) For any fiscal year, the level of funding allo-  
 2 cated to the office shall be not less than \$16,000,000 un-  
 3 less a lower level of funding is expressly required by law.”.

4 **SEC. 583. PERMANENT ID CARDS FOR RETIREE DEPEND-**  
 5 **ENTS AGE 70 AND OLDER.**

6 (a) IN GENERAL.—(1) Chapter 53 of title 10, United  
 7 States Code, is amended by adding at the end the fol-  
 8 lowing new section:

9 **“§ 1060b. Military ID cards: dependents and survivors**  
 10 **of retirees; issuance of permanent ID**  
 11 **card after attaining 70 years of age**

12 “(a) PERMANENT ID CARD AFTER AGE 70.—In  
 13 issuing military ID cards to retiree dependents, the Sec-  
 14 retary concerned shall issue a permanent ID card (not  
 15 subject to renewal) to any such retiree dependent who has  
 16 attained 70 years of age. Such a permanent ID card shall  
 17 be issued upon the expiration, after the retiree dependent  
 18 attains 70 years of age, of any earlier, renewable military  
 19 ID card or, if earlier, upon the request of such a retiree  
 20 dependent after attaining age 70.

21 “(b) DEFINITIONS.—In this section:

22 “(1) The term ‘military ID card’ means a card  
 23 or other form of identification used for purposes of  
 24 demonstrating eligibility for any benefit from the  
 25 Department of Defense.

1           “(2) The term “retiree dependent” means a  
 2           person who is a dependent of a retired member of  
 3           the uniformed services, or a survivor of a deceased  
 4           retired member of the uniformed services, who is eli-  
 5           gible for any benefit from the Department of De-  
 6           fense.”.

7           (2) The table of sections at the beginning of such  
 8           chapter is amended by adding at the end the following  
 9           new item:

          “1060b. Military ID cards: dependents and survivors of retirees; issuance of per-  
           manent ID card after attaining 70 years of age.”.

10          (b) EFFECTIVE DATE.—Section 1060b of title 10,  
 11          United States Code, as added by subsection (a), shall take  
 12          effect on October 1, 2004.

13          **SEC. 584. AUTHORITY TO PROVIDE CIVILIAN CLOTHING TO**  
 14                               **MEMBERS TRAVELING IN CONNECTION WITH**  
 15                               **MEDICAL EVACUATION.**

16          (a) AUTHORITY.—Section 1047 of title 10, United  
 17          States Code, is amended—

18               (1) by inserting “(b) CERTAIN ENLISTED MEM-  
 19               BERS.—” before “The Secretary”; and

20               (2) by inserting after the section heading the  
 21               following:

22               “(a) MEMBERS TRAVELING IN CONNECTION WITH  
 23               MEDICAL EVACUATION.—The Secretary of the military  
 24               department concerned may furnish civilian clothing to a

1 member at a cost not to exceed \$250, or reimburse a mem-  
 2 ber for the purchase of civilian clothing in an amount not  
 3 to exceed \$250, in the case of a member who—

4 “(1) is medically evacuated for treatment in a  
 5 medical facility by reason of an illness or injury in-  
 6 curred or aggravated while on active duty; or

7 “(2) after being medically evacuated as de-  
 8 scribed in paragraph (1), is in an authorized travel  
 9 status from a medical facility to another location ap-  
 10 proved by the Secretary.”.

11 (b) EFFECTIVE DATE.—Subsection (a) of section  
 12 1047 of title 10, United States Code, as added by sub-  
 13 section (a) shall take effect on October 1, 2004.

14 **SEC. 585. AUTHORITY TO ACCEPT DONATION OF FREQUENT**  
 15 **TRAVELER MILES, CREDITS, AND TICKETS TO**  
 16 **FACILITATE REST AND RECUPERATION**  
 17 **TRAVEL OF DEPLOYED MEMBERS OF THE**  
 18 **ARMED FORCES AND THEIR FAMILIES.**

19 (a) OPERATION HERO MILES.—Chapter 155 of title  
 20 10, United States Code, is amended by adding at the end  
 21 the following new section:

1 **“§ 2613. Acceptance of frequent traveler miles, cred-**  
2 **its, and tickets; use to facilitate rest and**  
3 **recuperation travel of deployed members**  
4 **and their families**

5 “(a) AUTHORITY TO ACCEPT DONATION OF TRAVEL  
6 BENEFITS.—Subject to subsection (c), the Secretary of  
7 Defense may accept from any person or government agen-  
8 cy the donation of travel benefits for the purposes of use  
9 under subsection (d).

10 “(b) TRAVEL BENEFIT DEFINED.—In the section,  
11 the term “travel benefit” means frequent traveler miles,  
12 credits for tickets, or tickets for air or surface transpor-  
13 tation issued by an air carrier or a surface carrier, respec-  
14 tively, that serves the public.

15 “(c) CONDITION ON AUTHORITY TO ACCEPT DONA-  
16 TION.—The Secretary may accept a donation of a travel  
17 benefit under this section only if the air or surface carrier  
18 that is the source of the benefit consents to such donation.  
19 Any such donation shall be under such terms and condi-  
20 tions as the surface carrier may specify, and the travel  
21 benefit so donated may be used only in accordance with  
22 the rules established by the carrier.

23 “(d) USE OF DONATED TRAVEL BENEFITS.—A trav-  
24 el benefit accepted under this section may be used only  
25 for the purpose of—



1           “(1) facilitating the travel of a member of the  
2       armed forces who—

3           “(A) is deployed on active duty away from  
4       the permanent duty station of the member; and

5           “(B) is granted, during such deployment,  
6       rest and recuperative leave, emergency leave,  
7       convalescent leave, or another form of leave au-  
8       thorized for the member; or

9           “(2) facilitating the travel of family members of  
10      a member described in paragraph (1) in order to be  
11      reunited with the member.

12      “(e) ADMINISTRATION.—The Secretary shall des-  
13      ignate a single office in the Department of Defense to  
14      carry out this section. That office shall be responsible for  
15      developing rules and procedures to facilitate the accept-  
16      ance and distribution of travel benefit under this section.

17      “(f) STATUS OF BENEFITS RECEIVED.—A member  
18      of the armed forces, or a family member of a member of  
19      the armed forces, who receives a travel benefit under this  
20      section is deemed to recognize no income from the receipt  
21      or use of such benefit. A donors of a travel benefit under  
22      this section is deemed to obtain no tax benefit from such  
23      donation.

1 “(g) FAMILY MEMBER DEFINED.—In this section,  
 2 the term ‘family member’ has the meaning given that term  
 3 in section 411h(b)(1) of title 37.”.

4 (b) CLERICAL AMENDMENT.—The table of sections  
 5 at the beginning of such chapter is amended by adding  
 6 at the end the following new item:

“2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families.”.

7 **SEC. 586. LIMITATION ON AMENDMENT OR CANCELLATION**  
 8 **OF DEPARTMENT OF DEFENSE DIRECTIVE**  
 9 **RELATING TO REASONABLE ACCESS TO MILI-**  
 10 **TARY INSTALLATIONS FOR CERTAIN PER-**  
 11 **SONAL COMMERCIAL SOLICITATION.**

12 An amendment to Department of Defense Directive  
 13 1344.7, “Personal Commercial Solicitation on DoD Instal-  
 14 lations”, or cancellation of that directive, shall not take  
 15 effect until after the end of the one-year period beginning  
 16 on the date on which a report containing the results of  
 17 the investigation regarding insurance premium allotment  
 18 processing, which is underway as of the date of the enact-  
 19 ment of this Act, is submitted to the Committee on Armed  
 20 Services and the Committee on Government Reform of the  
 21 House of Representatives and the Committee on Armed  
 22 Services and the Committee on Governmental Affairs of  
 23 the Senate.

1 **SEC. 587. ANNUAL IDENTIFICATION OF REASONS FOR DIS-**  
2 **CHARGES FROM THE ARMED FORCES DUR-**  
3 **ING PRECEDING FISCAL YEAR.**

4 Not later than January 1 each year, the Secretary  
5 of Defense shall submit to the Committees on Armed Serv-  
6 ices of the Senate and House of Representatives a report  
7 on discharges from the Army, Navy, Air Force, and Ma-  
8 rine Corps during the preceding fiscal year. Each such re-  
9 port shall show, in the aggregate and for each of those  
10 Armed Forces, the following:

11 (1) The total number of persons discharged  
12 during the preceding fiscal year.

13 (2) For each separation code, and for each re-  
14 enlistment eligibility code, used by the Armed  
15 Forces, the number of those discharged persons as-  
16 signed that code.

17 (3) For the persons assigned each such separa-  
18 tion code, classification of discharges by age, by sex,  
19 by race, by military rank or grade, by time in serv-  
20 ice, by unit (shown at the small unit level), by mili-  
21 tary occupational specialty (or the equivalent), and  
22 by reenlistment eligibility code.

1 **SEC. 588. AUTHORITY FOR FEDERAL RECOGNITION OF NA-**  
2 **TIONAL GUARD COMMISSIONED OFFICERS**  
3 **APPOINTED FROM FORMER COAST GUARD**  
4 **PERSONNEL.**

5 Section 305(a) of title 32, United States Code, is  
6 amended—

7 (1) by striking “Army, Navy, Air Force, or Ma-  
8 rine Corps” in paragraphs (2), (3), and (4) and in-  
9 serting “armed forces”; and

10 (2) by striking “or the United States Air Force  
11 Academy” in paragraph (5) and inserting “the  
12 United States Air Force Academy, or the United  
13 States Coast Guard Academy”.

14 **SEC. 589. STUDY OF BLENDED WING CONCEPT FOR THE AIR**  
15 **FORCE.**

16 (a) **STUDY REQUIRED.**—Not later than March 1,  
17 2005, the Secretary of the Air Force shall submit to Con-  
18 gress a report on the blended wing concept for the Air  
19 Force. The report shall include the Secretary’s findings  
20 as to the characteristics and locations that are considered  
21 favorable for a blended wing, a description of the manner  
22 in which current blended wings are functioning, and a  
23 statement of the current and future plans of the Air Force  
24 to implement the blended wing concept.

25 (b) **SELECTION CRITERIA.**—The report shall include  
26 a description of the criteria and attributes that the Sec-

1 retary requires when choosing units to become blended  
2 wings.

3 **SEC. 590. CONTINUATION OF IMPACT AID ASSISTANCE ON**  
4 **BEHALF OF DEPENDENTS OF CERTAIN MEM-**  
5 **BERS DESPITE CHANGE IN STATUS OF MEM-**  
6 **BER.**

7 (a) SPECIAL RULE.—For purposes of computing the  
8 amount of a payment for an eligible local educational  
9 agency under subsection (a) of section 8003 of the Ele-  
10 mentary and Secondary Education Act (20 U.S.C. 7703)  
11 for school year 2004–2005, the Secretary of Education  
12 shall continue to count as a child enrolled in a school of  
13 such agency under such subsection any child who—

14 (1) would be counted under paragraph (1)(B)  
15 of such subsection to determine the number of chil-  
16 dren who were in average daily attendance in the  
17 school; but

18 (2) due to the deployment of both parents or  
19 legal guardians of the child, the deployment of a  
20 parent or legal guardian having sole custody of the  
21 child, or the death of a military parent or legal  
22 guardian while on active duty (so long as the child  
23 resides on Federal property (as defined in section  
24 8013(5) of such Act (7 U.S.C. 7713(5))), is not eli-  
25 gible to be so counted.

1 (b) TERMINATION.—The special rule provided under  
2 subsection (a) applies only so long as the children covered  
3 by such subsection remain in average daily attendance at  
4 a school in the same local educational agency they at-  
5 tended before their change in eligibility status.

6 **Subtitle J—Other Matters**

7 **SEC. 591. EMPLOYMENT PREFERENCES FOR SPOUSES OF**  
8 **CERTAIN DEPARTMENT OF DEFENSE CIVIL-**  
9 **IAN EMPLOYEES SUBJECT TO RELOCATION**  
10 **AGREEMENTS.**

11 (a) SPOUSES OF CERTAIN CIVILIAN EMPLOYEES.—  
12 (1) Section 1784 of title 10, United States Code, is  
13 amended by adding at the end the following new sub-  
14 section:

15 “(h) INCLUSION OF SPOUSES OF CERTAIN DOD CI-  
16 VILIAN EMPLOYEES SUBJECT TO RELOCATION AGREE-  
17 MENTS.—(1) For the purposes of this section, the spouse  
18 of a civilian employee described in paragraph (2) shall be  
19 considered to be the spouse of a member of the armed  
20 forces.

21 “(2) An employee described in this paragraph is a  
22 Department of Defense employee who, pursuant to a man-  
23 datory mobility agreement executed as a condition of em-  
24 ployment or pursuant to another civilian mobility program  
25 of the Department of Defense, has had a change of perma-

1    nent duty assignment (A) that was based on the needs  
2    of the Government, and (B) that required a relocation of  
3    the employee's residence.”.

4           (b) CLERICAL AMENDMENTS.—(1) The heading of  
5    such section is amended to read as follows:

6    **“§ 1784. Employment opportunities: military spouses;**  
7                   **certain Department of Defense civilian**  
8                   **spouses subject to relocation agree-**  
9                   **ments”.**

10           (2) The item relating to such section in the table of  
11    sections at the beginning of subchapter I of chapter 88  
12    of such title is amended to read as follows:

“1784. Employment opportunities: military spouses; certain Department of De-  
fense civilian spouses subject to relocation agreements.”.

13           (c) EFFECTIVE DATE.—Subsection (h) of section  
14    1784 of title 10, United States Code, as added by sub-  
15    section (a), shall apply only with respect to spouses of em-  
16    ployees described in paragraph (2) of that subsection who  
17    relocate their residence as a result of a permanent duty  
18    assignment specified in that paragraph that is effective on  
19    or after the date of the enactment of this Act.

1 **SEC. 592. REPEAL OF REQUIREMENT TO CONDUCT ELEC-**  
2 **TRONIC VOTING DEMONSTRATION PROJECT**  
3 **FOR THE FEDERAL ELECTION TO BE HELD IN**  
4 **NOVEMBER 2004.**

5 Section 1604 of the National Defense Authorization  
6 Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat.  
7 1277; 42 U.S.C. 1977ff note) is repealed.

8 **SEC. 593. EXAMINATION OF SEXUAL ASSAULT IN THE**  
9 **ARMED FORCES BY THE DEFENSE TASK**  
10 **FORCE ESTABLISHED TO EXAMINE SEXUAL**  
11 **HARASSMENT AND VIOLENCE AT THE MILI-**  
12 **TARY SERVICE ACADEMIES.**

13 (a) EXTENSION OF TASK FORCE.—(1) The task force  
14 in the Department of Defense established by the Secretary  
15 of Defense pursuant to section 526 of the National De-  
16 fense Authorization Act for Fiscal Year 2004 (Public Law  
17 108–136; 117 Stat. 1466) to examine matters relating to  
18 sexual harassment and violence at the United States Mili-  
19 tary Academy and United States Naval Academy shall  
20 continue in existence for a period of at least 18 months  
21 after the date as of which the task force would otherwise  
22 be terminated pursuant to subsection (i) of that section.

23 (2) Upon the completion of the functions of the task  
24 force referred to in paragraph (1) pursuant to section 526  
25 of the National Defense Authorization Act for Fiscal Year  
26 2004, the name of the task force shall be changed to the



1 Defense Task Force on Sexual Assault in the Military  
2 Services, and the task force shall then carry out the func-  
3 tions specified in this section. The task force shall not  
4 begin to carry out the functions specified in this section  
5 until it has completed its functions under such section  
6 526.

7 (b) EXAMINATION OF MATTERS RELATING TO SEX-  
8 UAL ASSAULT IN THE ARMED FORCES.—The task force  
9 shall conduct an examination of matters relating to sexual  
10 assault in cases in which members of the Armed Forces  
11 are either victims or commit acts of sexual assault.

12 (c) RECOMMENDATIONS.—The Task Force shall in-  
13 clude in its report under subsection (e) recommendations  
14 of ways by which civilian officials within the Department  
15 of Defense and leadership within the Armed Forces may  
16 more effectively address matters relating to sexual assault.  
17 That report shall include an assessment of, and rec-  
18 ommendations (including any recommendations for  
19 changes in law) for measures to improve, with respect to  
20 sexual assault, the following:

- 21 (1) Victim care and advocacy programs.
- 22 (2) Effective prevention.
- 23 (3) Collaboration among military investigative  
24 organizations with responsibility or jurisdiction.

1           (4) Coordination between military and civilian  
2       communities, including local support organizations.

3           (5) Reporting procedures, data collection, and  
4       tracking.

5           (6) Oversight of sexual assault programs.

6           (7) Military justice issues.

7           (8) Other issues identified by the task force re-  
8       lating to sexual assault.

9       (d) METHODOLOGY.—In carrying out its examination  
10   under subsection (b) and in formulating its recommenda-  
11   tions under subsection (c), the task force shall consider  
12   the findings and recommendations of previous reviews and  
13   investigations of sexual assault conducted by the Depart-  
14   ment of Defense and the Armed Forces.

15       (e) REPORT.—(1) Not later than one year after the  
16   initiation of its examination under subsection (b), the task  
17   force shall submit to the Secretary of Defense and the Sec-  
18   retaries of the Army, Navy, and Air Force a report on  
19   the activities of the task force and on the activities of the  
20   Department of Defense and the Armed Forces to respond  
21   to sexual assault.

22       (2) The report shall include the following:

23           (A) A description of any barrier to implementa-  
24       tion of improvements as a result of previous efforts  
25       to address sexual assault.

1 (B) Other areas of concern not previously ad-  
2 dressed in prior reports

3 (C) The findings and conclusions of the task  
4 force.

5 (D) Any recommendations for changes to policy  
6 and law that the task force considers appropriate.

7 (3) Within 90 days after receipt of the report under  
8 paragraph (1), the Secretary of Defense shall submit the  
9 report, together with the Secretary's evaluation of the re-  
10 port, to the Committees on Armed Services of the Senate  
11 and House of Representatives.

12 (f) TERMINATION.—The task force shall terminate  
13 90 days after the date on which the report of the task  
14 force is submitted to the Committees on Armed Services  
15 of the Senate and House of Representatives pursuant to  
16 subsection (e)(3).

17 **SEC. 594. RENEWAL OF PILOT PROGRAM FOR TREATING**  
18 **GED AND HOME SCHOOL DIPLOMA RECIPI-**  
19 **ENTS AS HIGH SCHOOL GRADUATES FOR DE-**  
20 **TERMINATIONS OF ELIGIBILITY FOR ENLIST-**  
21 **MENT.**

22 Section 571(e) of the Strom Thurmond National De-  
23 fense Authorization Act for Fiscal Year 1999 (10 U.S.C.  
24 520 note) is amended to read as follows:

1       “(e) DURATION OF PILOT PROGRAM.—The pilot pro-  
2 gram shall be in effect during the period beginning on Oc-  
3 tober 1, 2004, and ending on September 30, 2005.”.

4       **SEC. 595. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES**  
5                   **THAT BENEFIT DEPENDENTS OF MEMBERS**  
6                   **OF THE ARMED FORCES AND DEPARTMENT**  
7                   **OF DEFENSE CIVILIAN EMPLOYEES.**

8       (a) CONTINUATION OF DEPARTMENT OF DEFENSE  
9 PROGRAM FOR FISCAL YEAR 2005.—Of the amount au-  
10 thorized to be appropriated pursuant to section 301(5) for  
11 operation and maintenance for Defense-wide activities,  
12 \$50,000,000 shall be available only for the purpose of pro-  
13 viding educational agencies assistance to local educational  
14 agencies.

15       (b) NOTIFICATION.—Not later than June 30, 2005,  
16 the Secretary of Defense shall notify each local edu-  
17 cational agency that is eligible for educational agencies as-  
18 sistance for fiscal year 2005 of—

19               (1) that agency’s eligibility for the assistance;  
20       and

21               (2) the amount of the assistance for which that  
22 agency is eligible.

23       (c) DISBURSEMENT OF FUNDS.—The Secretary of  
24 Defense shall disburse funds made available under sub-  
25 section (a) not later than 30 days after the date on which

1 notification to the eligible local educational agencies is  
2 provided pursuant to subsection (b).

3 (d) DEFINITIONS.—In this section:

4 (1) The term “educational agencies assistance”  
5 means assistance authorized under section 386(b) of  
6 the National Defense Authorization Act for Fiscal  
7 Year 1993 (Public Law 102–484; 20 U.S.C. 7703  
8 note).

9 (2) The term “local educational agency” has  
10 the meaning given that term in section 8013(9) of  
11 the Elementary and Secondary Education Act of  
12 1965 (20 U.S.C. 7713(9)).

13 **SEC. 596. SENIOR RESERVE OFFICER TRAINING CORPS AND**  
14 **RECRUITER ACCESS AT INSTITUTIONS OF**  
15 **HIGHER EDUCATION.**

16 (a) CERTIFICATION OF COMPLIANCE WITH ROTC  
17 ACCESS PROVISIONS.—Subsection (a) of section 983 of  
18 title 10, United States Code, is amended—

19 (1) by inserting “(1)” before “No funds”;

20 (2) by striking “prevents—” and inserting  
21 “prevents, either (or both) of the following:”;

22 (3) by striking “(1) the” and inserting “(A)  
23 The”;

24 (4) by striking “; or” and inserting a period;

1           (5) by striking “(2) a” and inserting “(B) A”;  
2           and

3           (6) by adding at the end the following:

4           “(2)(A) Not later than 180 days after the date of  
5 the enactment of the National Defense Authorization Act  
6 for Fiscal Year 2005 and annually thereafter, the Sec-  
7 retary of Defense shall request from each institution of  
8 higher education that has students participating in a Sen-  
9 ior Reserve Officer Training Corps program during the  
10 then-current academic year of that institution a certifi-  
11 cation that such institution, during the next academic year  
12 of the institution, will—

13           “(i) permit the Secretary of each military de-  
14 partment to maintain a unit of the Senior Officer  
15 Training Corps (in accordance with subsection (a))  
16 at that institution (or any subelement of that insti-  
17 tution), should such Secretary elect to maintain such  
18 a unit; and

19           “(ii) if the Secretary of the military department  
20 concerned elects not to establish or maintain a unit  
21 of the Senior Reserve Officer Training Corps at that  
22 institution, permit a student of that institution (or  
23 any subelement of that institution) to enroll in a  
24 unit of the Senior Reserve Officer Training Corps at  
25 another institution of higher education.

1       “(B) Any certification under subparagraph (A) shall  
2 be made by the president of the institution (or equivalent  
3 highest ranking administrative official) and shall be sub-  
4 mitted to the Secretary of Defense no later than 90 days  
5 after receipt of the request from the Secretary.

6       “(C) In the case of any institution from which a cer-  
7 tification is requested under subparagraph (A), if the Sec-  
8 retary of Defense does not receive a certification in accord-  
9 ance with subparagraph (B), or if the certification does  
10 not state that the university will comply with both clauses  
11 (i) and (ii) of subparagraph (A) during its next academic  
12 year, the Secretary shall make a determination under  
13 paragraph (1) as to whether the institution has a policy  
14 or practice described in that paragraph.”.

15       (b) EQUAL TREATMENT OF MILITARY RECRUITERS  
16 WITH OTHER RECRUITERS.—Subsection (b)(1) of such  
17 section is amended—

18               (1) by striking “entry to campuses” and insert-  
19 ing “access to campuses”; and

20               (2) by inserting before the semicolon at the end  
21 the following: “in a manner that is at least equal in  
22 quality and scope to the access to campuses and to  
23 students that is provided to any other employer”.

24       (c) PROHIBITION OF FUNDING FOR POST-SEC-  
25 ONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR

1 MILITARY RECRUITING.—(1) Subsection (d) of such sec-  
2 tion is amended—

3 (A) in paragraph (1)—

4 (i) by striking “limitation established in  
5 subsection (a) applies” and inserting “limita-  
6 tions established in subsections (a) and (b)  
7 apply”;

8 (ii) in subparagraph (B), by inserting “for  
9 any department or agency for which regular ap-  
10 propriations are made” after “made available”;  
11 and

12 (iii) by adding at the end the following new  
13 subparagraphs:

14 “(C) Any funds made available for the Depart-  
15 ment of Homeland Security.

16 “(D) Any funds made available for the National  
17 Nuclear Security Administration of the Department  
18 of Energy.

19 “(E) Any funds made available for the Depart-  
20 ment of Transportation.

21 “(F) Any funds made available for the Central  
22 Intelligence Agency.”; and

23 (B) by striking paragraph (2).



1       (2)(A) Subsection (b) of such section is amended by  
2 striking “subsection (d)(2)” and inserting “subsection  
3 (d)(1)”.

4       (B) Subsection (e) of such section is amended by in-  
5 serting “, to the head of each other department and agen-  
6 cy the funds of which are subject to the determination,”  
7 after “Secretary of Education”.

8       (d) CODIFICATION AND EXTENSION OF EXCLUSION  
9 OF AMOUNTS TO COVER INDIVIDUAL PAYMENTS.—Sub-  
10 section (d) of such section, as amended by subsection  
11 (c)(1), is further amended—

12           (1) by striking “The” after “(1)” and inserting  
13 “Except as provided in paragraph (2), the”; and

14           (2) by adding at the end the following new  
15 paragraph:

16       “(2) Any Federal funding specified in paragraph (1)  
17 that is provided to an institution of higher education, or  
18 to an individual, to be available solely for student financial  
19 assistance, related administrative costs, or costs associated  
20 with attendance, may be used for the purpose for which  
21 the funding is provided.”.

22       (e) CONFORMING AMENDMENTS.—Subsections (a)  
23 and (b) of such section are amended by striking “(includ-  
24 ing a grant of funds to be available for student aid)”.

1 (f) CONFORMING REPEAL OF CODIFIED PROVI-  
2 SION.—Section 8120 of the Department of Defense Ap-  
3 propriations Act, 2000 (Public Law 106–79; 10 U.S.C.  
4 983 note), is repealed

5 (g) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply with respect to funds appropriated  
7 for fiscal year 2005 and thereafter.

8 **SEC. 597. REPORTS ON TRANSFORMATION MILESTONES.**

9 (a) MILITARY TO CIVILIAN CONVERSIONS.—Not later  
10 than January 31, 2005, the Secretary of Defense shall  
11 submit to the Committees on Armed Services of the Sen-  
12 ate and House of Representatives a report providing infor-  
13 mation as to the number of positions in the Department  
14 of Defense converted during the previous fiscal year from  
15 performance by military personnel to performance by civil-  
16 ian personnel. The report shall include—

17 (1) a description of the skill set of the positions  
18 converted;

19 (2) specification of the total cost of such con-  
20 versions and how that cost is being paid for; and

21 (3) the number of positions in the Department  
22 of Defense projected for such conversion during the  
23 period from March 1, 2005, to January 31, 2006.

24 (b) CIVILIAN SKILLS CORPS FEASIBILITY STUDY.—

25 (1) The Secretary of Defense shall conduct an Armed

1 Forces-wide study of how a system to embed certain civil-  
2 ian expertise skill sets within the military on a temporary  
3 basis could be implemented. The study shall include con-  
4 sideration of all skills sets in which, as determined by the  
5 Secretary of Defense, there is a significant shortfall within  
6 the Armed Forces or which are high value, but of uncer-  
7 tain need. The study shall examine the feasibility of imple-  
8 menting a personnel system that expands the capability  
9 of the Armed Forces to rapidly access civilian volunteers  
10 with needed expertise outside of the reserve components.

11 (2) The Secretary shall submit to the congressional  
12 defense committees a report on the results of the study  
13 under paragraph (1) not later than March 31, 2005.

14 (c) MILITARY-TO-MILITARY CONVERSIONS.—Not  
15 later than March 31 of each of 2005, 2006, and 2007,  
16 the Secretary of Defense shall submit to the congressional  
17 defense committees a report on the milestones within the  
18 multiyear transformation for internal military-to-military  
19 transitions. Each such report shall include—

20 (1) the number of units and personnel trans-  
21 ferred and retrained within the previous fiscal year  
22 and what their new unit designations are; and

23 (2) a description of the transformation goals for  
24 the upcoming fiscal year and whether the previous  
25 years goals were met and why or why not.

1 (d) TRANSFORMATION TO BRIGADE STRUCTURE FOR  
2 THE ARMY.—No later than March 31 of each year, the  
3 Secretary of Defense shall submit to the congressional de-  
4 fense committees a report on the status of the internal  
5 transformation of the Army from a division-orientated sys-  
6 tem to a brigade-orientated one. Such a report shall be  
7 submitted for each year until the Secretary of the Army  
8 certifies to those committees that the transformation of  
9 the Army to brigade level units has been completed.

10 **SEC. 598. DEPARTMENT OF DEFENSE POLICY AND PROCE-**  
11 **DURES ON PREVENTION AND RESPONSE TO**  
12 **SEXUAL ASSAULTS INVOLVING MEMBERS OF**  
13 **THE ARMED FORCES.**

14 (a) COMPREHENSIVE POLICY ON PREVENTION AND  
15 RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than  
16 January 1, 2005, the Secretary of Defense shall develop  
17 a comprehensive policy for the Department of Defense on  
18 the prevention of and response to sexual assaults involving  
19 members of the Armed Forces.

20 (2) The policy shall be based on the recommendations  
21 of the Department of Defense Task Force on Care for Vic-  
22 tims of Sexual Assaults and on such other matters as the  
23 Secretary considers appropriate.

1 (b) ELEMENTS OF COMPREHENSIVE POLICY.—The  
2 policy developed under subsection (a) shall address the fol-  
3 lowing matters:

4 (1) Prevention measures.

5 (2) Education and training on prevention and  
6 response.

7 (3) Investigation of complaints by command  
8 and law enforcement personnel.

9 (4) Medical treatment of victims.

10 (5) Confidential reporting of incidents.

11 (6) Victim advocacy and intervention.

12 (7) Oversight by commanders of administrative  
13 and disciplinary actions in response to substantiated  
14 incidents of sexual assault.

15 (8) Disposition of victims of sexual assault, in-  
16 cluding review by appropriate authority of adminis-  
17 trative separation actions involving victims of sexual  
18 assault.

19 (9) Disposition of members of the Armed  
20 Forces accused of sexual assault.

21 (10) Liaison and collaboration with civilian  
22 agencies on the provision of services to victims of  
23 sexual assault.

1           (11) Uniform collection of data on the incidence  
2           of sexual assaults and on disciplinary actions taken  
3           in substantiated cases of sexual assault.

4           (c) REPORT ON IMPROVEMENT OF CAPABILITY TO  
5   RESPOND TO SEXUAL ASSAULTS.—Not later than March  
6   1, 2005, the Secretary of Defense shall submit to Congress  
7   a proposal for such legislation as the Secretary considers  
8   necessary to enhance the capability of the Department of  
9   Defense to address matters relating to sexual assaults in-  
10   volving members of the Armed Forces.

11          (d) APPLICATION OF COMPREHENSIVE POLICY TO  
12   MILITARY DEPARTMENTS.—The Secretary shall ensure  
13   that, to the maximum extent practicable, the policy devel-  
14   oped under subsection (a) is implemented uniformly by the  
15   military departments.

16          (e) POLICIES AND PROCEDURES OF MILITARY DE-  
17   PARTMENTS.—(1) Not later than March 1, 2005, the Sec-  
18   retaries of the military departments shall prescribe regula-  
19   tions, or modify current regulations, on the policies and  
20   procedures of the military departments on the prevention  
21   of and response to sexual assaults involving members of  
22   the Armed Forces in order—

23                (A) to conform such policies and procedures to  
24                the policy developed under subsection (a); and

1 (B) to ensure that such policies and procedures  
2 include the elements specified in paragraph (2).

3 (2) The elements specified in this paragraph are as  
4 follows:

5 (A) A program to promote awareness of the in-  
6 cidence of sexual assaults involving members of the  
7 Armed Forces.

8 (B) A program to provide victim advocacy and  
9 intervention for members of the Armed Force con-  
10 cerned who are victims of sexual assault, which pro-  
11 gram shall make available, at home stations and in  
12 deployed locations, trained advocates who are readily  
13 available to intervene on behalf of such victims.

14 (C) Procedures for members of the Armed  
15 Force concerned to follow in the case of an incident  
16 of sexual assault involving a member of such Armed  
17 Force, including—

18 (i) specification of the person or persons to  
19 whom the alleged offense should be reported;

20 (ii) specification of any other person whom  
21 the victim should contact;

22 (iii) procedures for the preservation of evi-  
23 dence; and

24 (iv) procedures for confidential reporting  
25 and for contacting victim advocates.

1 (D) Procedures for disciplinary action in cases  
2 of sexual assault by members of the Armed Force  
3 concerned.

4 (E) Other sanctions authorized to be imposed  
5 in substantiated cases of sexual assault, whether  
6 forcible or nonforcible, by members of the Armed  
7 Force concerned.

8 (F) Training on the policies and procedures for  
9 all members of the Armed Force concerned, includ-  
10 ing specific training for members of the Armed  
11 Force concerned who process allegations of sexual  
12 assault against members of such Armed Force.

13 (G) Any other matters that the Secretary of  
14 Defense considers appropriate.

15 (f) ANNUAL ASSESSMENT OF POLICIES AND PROCE-  
16 DURES.—Not later than January 15, 2006, and each year  
17 thereafter, each Secretary of a military department shall  
18 conduct an assessment of the implementation during the  
19 preceding fiscal year of the policies and procedures of such  
20 department on the prevention of and response to sexual  
21 assaults involving members of the Armed Forces in order  
22 to determine the effectiveness of such policies and proce-  
23 dures during such fiscal year in providing an appropriate  
24 response to such sexual assaults.



1 (g) ANNUAL REPORTS.—(1) Not later than April 1,  
2 2005, and January 15 of each year thereafter, each Sec-  
3 retary of a military department shall submit to the Sec-  
4 retary of Defense a report on the sexual assaults involving  
5 members of the Armed Force concerned during the pre-  
6 ceding year.

7 (2) Each report on an Armed Force under paragraph  
8 (1) shall contain the following:

9 (A) The number of sexual assaults against  
10 members of the Armed Force, and the number of  
11 sexual assaults by members of the Armed Force,  
12 that were reported to military officials during the  
13 year covered by such report, and the number of the  
14 cases so reported cases that were substantiated.

15 (B) A synopsis of and the disciplinary action  
16 taken in each substantiated case.

17 (C) The policies, procedures, and processes im-  
18 plemented by the Secretary concerned during the  
19 year covered by such report in response to incidents  
20 of sexual assault involving members of the Armed  
21 Force concerned.

22 (D) A plan for the actions that are to be taken  
23 in the year following the year covered by such report  
24 on the prevention of and response to sexual assault  
25 involving members of the Armed Forces concerned.

1       (3) Each report under paragraph (1) in 2006, 2007,  
2 and 2008 shall also include the assessment conducted by  
3 the Secretary concerned under subsection (f).

4       (4) The Secretary of Defense shall transmit to the  
5 Committees on Armed Services of the Senate and the  
6 House of Representatives each report submitted to the  
7 Secretary under this subsection, together with the com-  
8 ments of the Secretary on each such report. The Secretary  
9 shall transmit the report on 2004 not later than May 1,  
10 2005, and shall transmit the report on any year after  
11 2004 not later than March 15 of the year following such  
12 year.

13       (h) REQUIREMENT TO DEVELOP DEFINITION OF  
14 SEXUAL ASSAULT.—Prior to developing policies and pro-  
15 grams on the prevention of and response to sexual as-  
16 saults, the Department of Defense, in consultation with  
17 the Service Secretaries, shall develop a definition of sexual  
18 assault that is uniform for all the Armed Forces, including  
19 but not limited to rape, acquaintance rape, sexual assault,  
20 and other criminal offenses.

21 **SEC. 599. AUTHORITY FOR REMOVAL OF REMAINS OF CER-**  
22 **TAIN PERSONS INTERRED IN UNITED STATES**  
23 **MILITARY CEMETERIES OVERSEAS.**

24       (a) REMOVAL AND TRANSPORTATION OF REMAINS.—  
25 Upon receipt from a qualifying survivor of an application

1 with respect to a person interred in a United States over-  
2 seas military cemetery, the Secretary of Defense may,  
3 upon approval of such application, provide for—

4 (1) the removal of the remains of that person  
5 from the cemetery in which interred; and

6 (2) transportation of such remains to a location  
7 in the United States selected by such qualifying sur-  
8 vivor.

9 (b) REQUIREMENT FOR APPROVAL OF APPLICA-  
10 TIONS.—(1) An application under this section may be ap-  
11 proved only if the application presents sufficient evidence  
12 that, at the time of the initial disposition decision (as de-  
13 fined in paragraph (2)), there was a misunderstanding or  
14 error related to that disposition decision that the Sec-  
15 retary finds warrants approval of the application.

16 (2) In paragraph (1), the term “initial disposition de-  
17 cision”, with respect to the remains of a person who died  
18 outside the United States and was interred in a United  
19 States overseas military cemetery, means a decision by a  
20 family member (or other designated person) as to the dis-  
21 position (in accordance with laws and regulations in effect  
22 at the time) of the remains of the person with respect to  
23 whom the application is submitted, such decision being to  
24 have the remains interred in a United States overseas mili-  
25 tary cemetery (rather than to have those remains trans-

1 ported to the United States for interment or other disposi-  
2 tion in the United States).

3 (c) ABMC ASSISTANCE.—The American Battle  
4 Monuments Commission shall provide the Secretary of De-  
5 fense with such assistance as the Secretary may require  
6 in carrying out this section with respect to cemeteries  
7 under the jurisdiction of the Commission.

8 (d) TIME FOR APPLICATION.—An application under  
9 subsection (a) must be submitted to the Secretary of De-  
10 fense not later than the end of the two-year period begin-  
11 ning on the date of the enactment of this Act.

12 (e) NO EXPENDITURE OF FEDERAL FUNDS.—No  
13 costs associated with the removal and transportation of  
14 remains provided for under subsection (a) may be paid  
15 by the United States.

16 (f) DEFINITIONS.—For purposes of this section:

17 (1) UNITED STATES OVERSEAS MILITARY CEM-  
18 ETERY.—The term “United States overseas military  
19 cemetery” means a cemetery located in a foreign  
20 country that is administered by the Secretary of a  
21 military department or the American Battle Monu-  
22 ments Commission.

23 (2) QUALIFYING SURVIVORS.—The term “quali-  
24 fying survivor” means the following, in the order  
25 specified.

1 (A) The surviving spouse.

2 (B) All surviving children (including adop-  
3 tive children), acting concurrently.

4 (C) A birth parent or, if both survive, both  
5 birth parents, acting concurrently.

6 **TITLE VI—COMPENSATION AND**  
7 **OTHER PERSONNEL BENEFITS**  
8 **Subtitle A—Pay and Allowances**

9 **SECTION 601. INCREASE IN BASIC PAY FOR FISCAL YEAR**  
10 **2005.**

11 (a) WAIVER OF SECTION 1009 ADJUSTMENT.—The  
12 adjustment to become effective during fiscal year 2005 re-  
13 quired by section 1009 of title 37, United States Code,  
14 in the rates of monthly basic pay authorized members of  
15 the uniformed services shall not be made.

16 (b) INCREASE IN BASIC PAY.—Effective on January  
17 1, 2005, the rates of monthly basic pay for members of  
18 the uniformed services are increased by 3.5 percent.

19 **SEC. 602. AUTHORITY TO PROVIDE FAMILY SEPARATION**  
20 **BASIC ALLOWANCE FOR HOUSING.**

21 Section 403(d) of title 37, United States Code, is  
22 amended—

23 (1) in paragraph (1), by striking “is entitled  
24 to” and inserting “may be paid”; and

1           (2) in paragraph (4), by striking the first sen-  
2           tence and inserting the following new sentence: “A  
3           family separation basic allowance for housing paid to  
4           a member under this subsection is in addition to any  
5           other allowance or per diem that the member re-  
6           ceives under this title.”

7   **SEC. 603. GEOGRAPHIC BASIS FOR BASIC ALLOWANCE FOR**  
8                   **HOUSING DURING SHORT CHANGES OF STA-**  
9                   **TION FOR PROFESSIONAL MILITARY EDU-**  
10                  **CATION OR TRAINING.**

11          Section 403(d)(3) of title 37, United States Code, is  
12   amended by adding at the end the following new subpara-  
13   graph:

14           “(C) If the member is reassigned for a perma-  
15          nent change of station or permanent change of as-  
16          signment from a duty station in the continental  
17          United States to another duty station in the conti-  
18          nental United States for a period of not more than  
19          one year for the purpose of participating in profes-  
20          sional military education or training classes, the Sec-  
21          retary concerned may base the amount of the basic  
22          allowance for housing for the member on the duty  
23          station to which the member is reassigned or the  
24          area in which the dependents reside, whichever the

1 Secretary concerned determines to be most equi-  
2 table.”.

3 **SEC. 604. IMMEDIATE LUMP-SUM REIMBURSEMENT FOR**  
4 **UNUSUAL NONRECURRING EXPENSES IN-**  
5 **CURRED BY MEMBERS SERVING OUTSIDE**  
6 **CONTINENTAL UNITED STATES.**

7 (a) ELIGIBILITY FOR REIMBURSEMENT.—Section  
8 405 of title 37, United States Code, is amended by adding  
9 at the end the following new subsection:

10 “(d) LUMP-SUM REIMBURSEMENT FOR NON-  
11 RECURRING EXPENSES.—In addition to providing a per  
12 diem under this section, the Secretary concerned may re-  
13 imburse a member for actual expenses of a nonrecurring  
14 nature that the member incurs incident to serving on duty  
15 outside of the continental United States. The types of ex-  
16 penses for which reimbursement may be provided under  
17 this paragraph shall be limited to those expenses directly  
18 related to the conditions or location of the duty outside  
19 of the continental United States and either of a nature  
20 or a magnitude not normally incurred by members as-  
21 signed to duty inside the continental United States. In de-  
22 termining the per diem to be paid under this section, the  
23 Secretary concerned shall not consider expenses for which  
24 reimbursement is provided under this paragraph.”.

1 (b) USE OF DEFINED TERM CONTINENTAL UNITED  
 2 STATES.—(1) Subsection (a) of such section is amended  
 3 by striking “outside of the United States or in Hawaii or  
 4 Alaska” and inserting “outside of the continental United  
 5 States”.

6 (2) The heading of such section is amended to read  
 7 as follows:

8 **“§ 405. Travel and transportation allowances: per**  
 9 **diem while on duty outside the conti-**  
 10 **mental United States”.**

11 (3) The table of sections at the beginning of chapter  
 12 7 of such title is amended by striking the item relating  
 13 to section 405 and inserting the following new item:

“405. Travel and transportation allowances: per diem while on duty outside the  
 continental United States.”.

14 **SEC. 605. INCOME REPLACEMENT PAYMENTS FOR RE-**  
 15 **SERVES EXPERIENCING EXTENDED AND FRE-**  
 16 **QUENT MOBILIZATION FOR ACTIVE DUTY**  
 17 **SERVICE.**

18 (a) IN GENERAL.—(1) Chapter 19 of title 37, United  
 19 States Code, is amended by adding at the end the fol-  
 20 lowing new section:



1 **“§ 910. Replacement of lost income: involuntarily mo-**  
2 **bilized reserve component members sub-**  
3 **ject to extended and frequent active duty**  
4 **service**

5 “(a) PAYMENT REQUIRED.—The Secretary con-  
6 cerned shall pay to an eligible member of a reserve compo-  
7 nent of the armed forces an amount equal to the monthly  
8 active-duty income differential of the member, as deter-  
9 mined by the Secretary. The payments shall be made on  
10 a monthly basis.

11 “(b) ELIGIBILITY.—Subject to subsection (c), a re-  
12 serve component member is entitled to a payment under  
13 this section for any full month of active duty of the mem-  
14 ber, while on active duty under an involuntary mobiliza-  
15 tion order, following the date on which the member—

16 “(1) completes 12 continuous months of service  
17 on active duty under such an order;

18 “(2) completes 18 months on active duty during  
19 the previous 60 months under such an order; or

20 “(3) is involuntarily mobilized for service on ac-  
21 tive duty six months or less following the member’s  
22 separation from the member’s previous period of ac-  
23 tive duty.

24 “(c) MINIMUM AND MAXIMUM PAYMENT  
25 AMOUNTS.—(1) A payment under this section shall be  
26 made to a member for a month only if the amount of the

1 monthly active-duty income differential for the month is  
2 greater than \$50.

3 “(2) Notwithstanding the amount determined under  
4 subsection (d) for a member for a month, the monthly pay-  
5 ment to a member under this section may not exceed  
6 \$3,000.

7 “(d) MONTHLY ACTIVE-DUTY INCOME DIFFEREN-  
8 TIAL.—For purposes of this section, the monthly active-  
9 duty income differential of a member is the difference  
10 between—

11 “(1) the average monthly civilian income of the  
12 member; and

13 “(2) the member’s total monthly military com-  
14 pensation.

15 “(e) DEFINITIONS.—In this section:

16 “(1) The term ‘average monthly civilian in-  
17 come’, with respect to a member of a reserve compo-  
18 nent, means the amount, determined by the Sec-  
19 retary concerned, of the earned income of the mem-  
20 ber for either the 12 months preceding the member’s  
21 mobilization or the 12 months covered by the mem-  
22 ber’s most recent Federal income tax filing, divided  
23 by 12.

1           “(2) The term ‘total monthly military com-  
2           pensation’ means the amount, computed on a  
3           monthly basis, of the sum of—

4                   “(A) the amount of the regular military  
5           compensation (RMC) of the member; and

6                   “(B) any amount of special pay or incen-  
7           tive pay and any allowance (other than an al-  
8           lowance included in regular military compensa-  
9           tion) that is paid to the member on a monthly  
10          basis.”.

11          (2) The table of sections at the beginning of such  
12 chapter is amended by adding at the end the following  
13 new item:

          “910. Replacement of lost income: involuntarily mobilized reserve component  
  members subject to extended and frequent active duty serv-  
  ice.”.

14          (b) EFFECTIVE DATE.—Section 910 of title 37,  
15 United States Code, as added by subsection (a), shall  
16 apply for months after December 2004.

17 **SEC. 606. AUTHORITY FOR CERTAIN MEMBERS DEPLOYED**  
18 **IN COMBAT ZONES TO RECEIVE LIMITED AD-**  
19 **VANCES ON THEIR FUTURE BASIC PAY.**

20          (a) ADVANCEMENT OF BASIC PAY.—(1) Chapter 3  
21 of title 37, United States Code, is amended by adding at  
22 the end the following new section:

1 **“§ 212. Advancement of basic pay: members deployed**  
2 **in combat zones for more than one year**

3 “(a) ELIGIBILITY; AMOUNT ADVANCED.—(1) If a  
4 member of the armed forces is assigned to duty in an area  
5 for which special pay under section 310 of this title is  
6 available and the assignment is pursuant to orders speci-  
7 fying an assignment of one year or more (or the assign-  
8 ment is otherwise extended beyond one year), the member  
9 may request, during the period of the assignment, the ad-  
10 vanced payment of not more than three months of the  
11 basic pay of the member.

12 “(2) A request by a member described in paragraph  
13 (1) for the advanced payment of a single month of basic  
14 pay shall be granted. The Secretary concerned may grant  
15 a request for a second or third month of advanced basic  
16 pay during the assignment for the member upon a showing  
17 of financial hardship.

18 “(b) RECOUPMENT OF ADVANCED PAY.—The Sec-  
19 retary concerned shall recoup an advance made on the  
20 basic pay of a member under this section in equal install-  
21 ments over a one-year period beginning as provided in sub-  
22 section (c). If the member is serving on active duty for  
23 any month during the recoupment period, the amount of  
24 the installment for the month shall be deducted from the  
25 basic pay of the member for that month. The estate of

1 a deceased member shall not be required to repay an ad-  
2 vance made to the member under this section.

3 “(c) COMMENCEMENT OF RECOUPMENT.—(1) Ex-  
4 cept as provided in paragraph (2), the recoupment of basic  
5 pay advanced to a member under this section shall com-  
6 mence beginning with the first month that begins after  
7 the end of the assignment of the member to duty in an  
8 area for which special pay under section 310 of this title  
9 is available

10 “(2) A member of a reserve component who receives  
11 an advancement of basic pay under this section shall com-  
12 mence repayment of the advance beginning with the first  
13 month that begins after the the advanced pay is re-  
14 ceived.”.

15 (2) The table of sections at the beginning of such  
16 chapter is amended by adding at the end the following  
17 new item:

“212. Advancement of basic pay: members deployed in combat zones for more  
than one year.”.

18 (b) EFFECTIVE DATE.—Section 212 of title 37,  
19 United States Code, as added by subsection (a), shall take  
20 effect October 1, 2004.

1     **Subtitle B—Bonuses and Special**  
2                     **and Incentive Pays**

3     **SEC. 611. ONE-YEAR EXTENSION OF BONUS AND SPECIAL**  
4                     **PAY AUTHORITIES.**

5             (a) NURSE OFFICER CANDIDATE ACCESSION PRO-  
6     GRAM.—Section 2130a(a)(1) of title 10, United States  
7     Code, is amended by striking “December 31, 2004” and  
8     inserting “December 31, 2005”.

9             (b) REPAYMENT OF EDUCATION LOANS FOR CER-  
10    TAIN HEALTH PROFESSIONALS WHO SERVE IN THE SE-  
11    LECTED RESERVE.—Section 16302(d) of such title is  
12    amended by striking “January 1, 2005” and inserting  
13    “January 1, 2006”.

14            (c) AVIATION OFFICER RETENTION BONUS.—Sec-  
15    tion 301b(a) of title 37, United States Code, is amended  
16    by striking “December 31, 2004” and inserting “Decem-  
17    ber 31, 2005”.

18            (d) ACCESSION BONUS FOR REGISTERED NURSES.—  
19    Section 302d(a)(1) of such title is amended by striking  
20    “December 31, 2004” and inserting “December 31,  
21    2005”.

22            (e) INCENTIVE SPECIAL PAY FOR NURSE ANES-  
23    THETISTS.—Section 302e(a)(1) of such title is amended  
24    by striking “December 31, 2004” and inserting “Decem-  
25    ber 31, 2005”.

1       (f) ACCESSION BONUS FOR DENTAL OFFICERS.—  
2 Section 302h(a)(1) of such title is amended by striking  
3 “December 31, 2004” and inserting “December 31,  
4 2005”.

5       (g) ACCESSION BONUS FOR PHARMACY OFFICERS.—  
6 Section 302j(a) of such title is amended by striking “the  
7 date of the enactment of the Floyd D. Spence National  
8 Defense Authorization Act for Fiscal Year 2001 and end-  
9 ing on September 30, 2004” and inserting “October 30,  
10 2000, and ending on December 31, 2005”.

11       (h) REENLISTMENT BONUS FOR ACTIVE AND RE-  
12 SERVE MEMBERS.—Section 308(g) of such title is amend-  
13 ed by striking “December 31, 2004” and inserting “De-  
14 cember 31, 2005”.

15       (i) ENLISTMENT BONUS FOR ACTIVE AND RESERVE  
16 MEMBERS.—Section 309(e) of such title is amended by  
17 striking “December 31, 2004” and inserting “December  
18 31, 2005”.

19       (j) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFI-  
20 CERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section  
21 312(e) of such title is amended by striking “December 31,  
22 2004” and inserting “December 31, 2005”.

23       (k) NUCLEAR CAREER ACCESSION BONUS.—Section  
24 312b(c) of such title is amended by striking “December  
25 31, 2004” and inserting “December 31, 2005”.

1 (l) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—  
2 Section 312c(d) of such title is amended by striking “De-  
3 cember 31, 2004” and inserting “December 31, 2005”.

4 (m) RETENTION BONUS FOR MEMBERS WHO HAVE  
5 CRITICAL MILITARY SKILLS OR MEET OTHER CRI-  
6 TERIA.—Section 323(i) of such title is amended by strik-  
7 ing “December 31, 2004” and inserting “December 31,  
8 2005”.

9 (n) ACCESSION OR AFFILIATION BONUS FOR NEW  
10 OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such  
11 title is amended by striking “December 31, 2004” and in-  
12 serting “December 31, 2005”.

13 **SEC. 612. REDUCTION IN REQUIRED SERVICE COMMIT-**  
14 **MENT TO RECEIVE ACCESSION BONUS FOR**  
15 **REGISTERED NURSES.**

16 (a) REDUCTION.—Section 302d(a)(1) of title 37,  
17 United States Code, is amended by striking “four years”  
18 and inserting “three years”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect October 1, 2004, and apply  
21 with respect to written agreements referred to in section  
22 302d(a)(1) of title 37, United States Code, entered into  
23 on or after that date.



1 **SEC. 613. INCREASE IN MAXIMUM MONTHLY RATE AUTHOR-**  
2 **IZED FOR HARDSHIP DUTY PAY.**

3 (a) INCREASE.—Section 305(a) of title 37, United  
4 States Code, is amended by striking “\$300” and inserting  
5 “\$750”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall take effect October 1, 2004.

8 **SEC. 614. TERMINATION OF ASSIGNMENT INCENTIVE PAY**  
9 **FOR MEMBERS PLACED ON TERMINAL**  
10 **LEAVE.**

11 (a) TERMINATION.—Subsection (e) of section 307a of  
12 title 37, United States Code, is amended to read as fol-  
13 lows:

14 “(e) STATUS NOT AFFECTED BY TEMPORARY DUTY  
15 OR LEAVE.—The service of a member in an assignment  
16 referred to in subsection (a) shall not be considered dis-  
17 continued during any period that the member is not per-  
18 forming service in the assignment by reason of —

19 “(1) the performance by the member of tem-  
20 porary duty pursuant to orders; or

21 “(2) the absence of the member for authorized  
22 leave, unless the member is placed on terminal leave  
23 and will not be returning to the assignment.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply with respect to agreements  
26 under section 307a(b) of title 37, United States Code, en-

tered into on or after the date of the enactment of this Act.

**SEC. 615. CONSOLIDATION OF REENLISTMENT AND ENLISTMENT BONUS AUTHORITIES FOR REGULAR AND RESERVE COMPONENTS.**

(a) CONSOLIDATED REENLISTMENT BONUS AUTHORITY; ELIGIBILITY CRITERIA.—(1) Paragraph (1) of subsection (a) of section 308 of title 37, United States Code, is amended—

(A) by striking the matter preceding subparagraph (A) and inserting “The Secretary concerned may pay a bonus under paragraph (2) to a member of the armed forces serving in a regular component or reserve component of the armed force if the member—”;

(B) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) has completed at least 17 months of service in a regular or reserve component of the armed forces, but not more than 18 years of total military service;” and

(C) by striking subparagraph (D) and all that follows through the period at the end of such paragraph and inserting the following:

1           “(D) reenlists or voluntarily extends the mem-  
2       ber’s enlistment for a period of at least three years  
3       in a regular component or reserve component of the  
4       armed forces.”.

5       (2) Paragraph (3) of such subsection is amended by  
6       striking “16 years” and inserting “20 years”.

7       (3) Paragraph (5) of such subsection is amended to  
8       read as follows:

9       “(5) The Secretary of Defense, and the Secretary of  
10      Homeland Security with respect to the Coast Guard when  
11      it is not operating as a service in the Navy, may waive  
12      all or part of the eligibility requirements specified in para-  
13      graph (1) in time of war or national emergency.”.

14      (4) Subsection (b) of such section is amended—

15           (A) by inserting “(1)” after “(b)”; and

16           (B) by adding at the end the following new  
17      paragraph:

18      “(2) Notwithstanding the schedule established for  
19      making partial bonus payments under paragraph (1), a  
20      member of a reserve component entitled to a bonus under  
21      this section who is called or ordered to active duty shall  
22      be paid, during that period of active duty, any amount  
23      of the bonus that becomes payable to the member during  
24      that period of active duty.”.

1       (5) Subsection (g) of such section is amended by  
2 striking “an active-duty reenlistment” and inserting “a re-  
3 enlistment”.

4       (b) CONSOLIDATED ENLISTMENT BONUS AUTHOR-  
5 ITY.—Section 309(a) of such title is amended—

6           (1) by striking the first sentence and inserting  
7 the following: “(1) The Secretary concerned may pay  
8 a bonus this section to a person who enlists in a reg-  
9 ular component or reserve component of the armed  
10 forces for a period of at least two years.”; and

11          (2) by inserting after the first sentence, as so  
12 amended, the following new paragraph:

13       “(2) The amount of a bonus under this section may  
14 not exceed \$20,000.”.

15       (c) REPEAL OF SEPARATE REENLISTMENT AND EN-  
16 LISTMENT BONUS AUTHORITY FOR RESERVE COMPO-  
17 NENTS.—(1) Sections 308b, 308c, 308g, 308h, and 308i  
18 of such title are repealed.

19       (2) The table of sections at the beginning of chapter  
20 5 of such title is amended by striking the items relating  
21 to sections 308b, 308c, 308h, and 308i.

22       (d) EFFECTIVE DATE.—(1) Except as provided by  
23 paragraphs (2) and (3), the amendments made by this sec-  
24 tion shall take effect October 1, 2004, and the amend-  
25 ments made by subsections (a) and (b) shall apply to re-

1 enlistments, the voluntary extension of enlistments, and  
2 enlistments referred to in section 308(a)(1) or 309(a) of  
3 title 37, United States Code, entered into on or after that  
4 date.

5 (2) The amendments made by subsection (c) shall  
6 take effect December 31, 2004, except that the repeal of  
7 section 308g of title 37, United States Code, shall take  
8 effect on the date of the enactment of this Act.

9 (3) In the case of a member of the Armed Forces  
10 who, on or before December 31, 2004, reenlisted, volun-  
11 tarily extended the enlistment of the member, or enlisted  
12 in a reserve component of the Armed Forces, section 308b,  
13 308c, 308h, or 308i of title 37, United States Code, which-  
14 ever applies to the member, and as in effect on December  
15 31, 2004, shall continue to apply with respect to the pay-  
16 ment of a bonus under such section to the member.

17 (e) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
18 TIONS.—During fiscal year 2005, obligations incurred  
19 under sections 308 and 309 of title 37, United States  
20 Code, to provide reenlistment and enlistment bonuses to  
21 members of the uniformed services using the expanded au-  
22 thority provided by the amendments made by subsections  
23 (a) and (b) may not exceed \$20,000,000. The bonus au-  
24 thority available under such sections shall not be consid-  
25 ered to be an expanded authority to the extent that the

1 authority was available under a provision of law specified  
2 in subsection (c), before the repeal of the provision by such  
3 subsection.

4 **SEC. 616. REVISION OF AUTHORITY TO PROVIDE FOREIGN**  
5 **LANGUAGE PROFICIENCY PAY.**

6 (a) IN GENERAL.—(1) Section 316 of title 37, United  
7 States Code, is amended to read as follows:

8 **“§ 316. Special pay: bonus for members with foreign**  
9 **language proficiency**

10 “(a) BONUS AUTHORIZED.—The Secretary con-  
11 cerned may pay an annual bonus under this section to a  
12 member of the uniformed services who—

13 “(1) is qualified in a uniformed services spe-  
14 cialty requiring proficiency in a foreign language  
15 identified by the Secretary concerned as a foreign  
16 language in which it is necessary to have personnel  
17 proficient because of national defense or public  
18 health considerations;

19 “(2) received training, under regulations pre-  
20 scribed by the Secretary concerned, designed to de-  
21 velop a proficiency in such a foreign language;

22 “(3) is assigned to duties requiring a pro-  
23 ficiency in such a foreign language; or

1           “(4) is proficient in a foreign language for  
2           which the uniformed service may have a critical  
3           need, as determined by the Secretary concerned.

4           “(b) CERTIFICATION OF PROFICIENCY.—Except as  
5           provided in subsection (e), for a member described in sub-  
6           section (a) to be eligible to receive or retain a bonus under  
7           this section, the Secretary concerned shall certify the  
8           member as being proficient in the foreign language for  
9           which bonus is offered.

10          “(c) DURATION OF CERTIFICATION.—Except as pro-  
11          vided in subsection (e), the certification of a member as  
12          being proficient in a foreign language for purposes of re-  
13          ceipt of a bonus under this section shall expire at the end  
14          of the 12-month period beginning on the first day of the  
15          first month beginning on or after the certification date.

16          “(d) BONUS AMOUNT; PAYMENT METHOD.—The  
17          maximum amount of the bonus paid under this section  
18          to a member may not exceed \$12,000 for the 12-month  
19          period covered by the certification of the member. The  
20          Secretary concerned may pay the bonus in a single lump  
21          sum at the beginning of the certification period or in in-  
22          stallments.

23          “(e) CERTIFICATION INTERRUPTED BY CONTIN-  
24          GENCY OPERATION.—(1) The Secretary concerned may  
25          waive the certification requirement under subsection (b)

1 and pay a bonus under this section to a member described  
2 in subsection (a) who was previously certified in a foreign  
3 language, but whose certification expired under subsection  
4 (c), if—

5           “(A) the member is assigned to duty in connec-  
6           tion with a contingency operation; and

7           “(B) the Secretary concerned determines that  
8           the member is unable to schedule or complete the  
9           certification required by subsection (b) because of  
10          that assignment.

11          “(2) For purposes of determining the amount of a  
12          bonus to be paid to a member under the authority of this  
13          subsection, the Secretary concerned shall treat the date  
14          on which the member was assigned to duty in connection  
15          with the contingency operation as equivalent to a certifi-  
16          cation date. In the case of a member whose certification  
17          expires during such duty assignment, the Secretary shall  
18          commence the next 12-month period effective as of the  
19          date on which the prior certification period expired.

20          “(3) A member who receives a bonus under the au-  
21          thority of this subsection shall complete the certification  
22          required by subsection (b) for the foreign language for  
23          which the bonus was paid not later than the end of the  
24          180-day period beginning on the date on which the mem-  
25          ber is released from the assignment in connection with the



1 contingency operation. The Secretary concerned may ex-  
2 tend that period for a member in accordance with regula-  
3 tions prescribed under subsection (h). If the member fails  
4 to obtain the required certification before the end of the  
5 authorized period, the Secretary concerned may require  
6 the member to repay all or a portion of the bonus, in the  
7 manner provided in subsection (g).

8       “(f) RELATIONSHIP TO OTHER PAY OR ALLOW-  
9 ANCE.—A bonus under this section is in addition to any  
10 other pay or allowance payable to a member under any  
11 other provision of law.

12       “(g) REPAYMENT OF BONUS.—(1) The Secretary  
13 concerned may require a member who receives a bonus  
14 under this section, but who does not satisfy an eligibility  
15 requirement specified in subsection (a) for the entire cer-  
16 tification period, to repay to the United States an amount  
17 which bears the same ratio to the total amount of the  
18 bonus paid to the member as the unsatisfied portion of  
19 the certification period bears to the entire certification pe-  
20 riod.

21       “(2) An obligation to repay the United States im-  
22 posed under paragraph (1) is for all purposes a debt owed  
23 to the United States. A discharge in bankruptcy under  
24 title 11 that is entered for the member less than five years  
25 after the expiration of the certification period does not dis-

1 charge the member from a debt arising under this para-  
2 graph. This paragraph applies to any case commenced  
3 under title 11 after the date of the enactment of this sec-  
4 tion.

5 “(h) REGULATIONS.—This section shall be adminis-  
6 tered under regulations prescribed by the Secretary of De-  
7 fense for the armed forces under the jurisdiction of the  
8 Secretary, by the Secretary of Homeland Security for the  
9 Coast Guard when the Coast Guard is not operating as  
10 a service in the Navy, by the Secretary of Health and  
11 Human Services for the Commissioned Corps of the Public  
12 Health Service, and by the Secretary of Commerce for the  
13 National Oceanic and Atmospheric Administration.”.

14 (2) The table of sections at the beginning of chapter  
15 5 of such title is amended by striking the item relating  
16 to section 316 and inserting the following new item:

“316. Special pay: bonus for members with foreign language proficiency.”.

17 (b) CONFORMING AMENDMENTS.—(1) Section 316a  
18 of title 37, United States Code, is repealed.

19 (2) The table of sections at the beginning of chapter  
20 5 of such title is amended by striking the item relating  
21 to section 316a.

1 **SEC. 617. ELIGIBILITY OF RESERVE COMPONENT MEMBERS**  
2 **FOR CRITICAL SKILLS RETENTION BONUS**  
3 **AND EXPANSION OF AUTHORITY TO PROVIDE**  
4 **BONUS.**

5 (a) INCLUSION OF RESERVE COMPONENT MEM-  
6 BERS.—Section 323 of title 37, United States Code, is  
7 amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1),  
10 by striking “who is serving on active duty and”  
11 by inserting “who is serving on active duty in  
12 a regular component or in an active status in  
13 a reserve component and who”; and

14 (B) in paragraph (1), by inserting “, or re-  
15 main in an active status in a reserve compo-  
16 nent,” after “remain on active duty”;

17 (2) in subsection (e)(2), by inserting “or service  
18 in a reserve component” after “period of active  
19 duty”; and

20 (3) in subsection (g), by striking “active duty”  
21 and inserting “service”.

22 (b) INCLUSION OF MEMBERS SERVING PURSUANT TO  
23 INDEFINITE REENLISTMENT.—Subsection (a) of such sec-  
24 tion is further amended—

25 (1) by striking “or” at the end of paragraph  
26 (1);

1 (2) in paragraph (2)—

2 (A) by inserting “other than an enlisted  
3 member referred to in paragraph (3),” after  
4 “enlisted member,”; and

5 (B) by striking the period at the end and  
6 inserting “; or”; and

7 (3) by adding at the end the following new  
8 paragraph:

9 “(3) in the case of an enlisted member serving  
10 pursuant to an indefinite reenlistment, the member  
11 executes a written agreement to remain on active  
12 duty, or remain in an active status in a reserve com-  
13 ponent, for a period of at least one year.”.

14 (c) ADDITIONAL CRITERIA FOR BONUS.—Such sec-  
15 tion is further amended—

16 (1) in subsection (a), by striking “designated  
17 critical military skill” and inserting “critical military  
18 skill designated under subsection (b) or satisfies  
19 such other criteria for the bonus established under  
20 such subsection”;

21 (2) in subsection (b)—

22 (A) by striking “DESIGNATION OF CRIT-  
23 ICAL SKILLS.—” and inserting “BASIS FOR  
24 BONUS.—(1)”; and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(2) The Secretary of Defense, and the Secretary of  
4 Homeland Security with respect to the Coast Guard when  
5 it is not operating as a service in the Navy, may establish  
6 such other criteria as the Secretary considers appropriate  
7 under which a retention bonus will be provided to an offi-  
8 cer or enlisted member of the armed forces under sub-  
9 section (a).”; and

10 (3) in subsection (h)(1), by striking “qualified  
11 in the critical military skills for which the bonuses  
12 were offered” and inserting “who were offered the  
13 bonuses”.

14 (d) REPEAL OF SEPARATE SPECIAL AND INCENTIVE  
15 PAY AUTHORITIES FOR RESERVE COMPONENTS.—(1)  
16 Sections 302g, 308d, and 308e of such title are repealed.

17 (2) In the case of a member of the Armed Forces  
18 who, on or before December 31, 2004, entered into a writ-  
19 ten agreement under section 302g or 308e of title 37,  
20 United States Code, such section 302g or 308e, whichever  
21 applies to the member, and as in effect on December 31,  
22 2004, shall continue to apply after that date with respect  
23 to the payment of special pay under such section to the  
24 member during the term of the agreement.

1 (e) CLERICAL AMENDMENTS.—(1) The heading of  
 2 section 323 of such title is amended to read as follows:

3 **“§ 323 Special pay: retention incentives for members**  
 4 **qualified in a critical military skill or**  
 5 **who satisfy other eligibility criteria”.**

6 (2) The table of sections at the beginning of chapter  
 7 5 of such title is amended—

8 (A) by striking the items relating to sections  
 9 302g, 308d, and 308e; and

10 (B) by striking the item relating to section 323  
 11 and inserting the following new item:

“323. Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria.”.

12 (f) EFFECTIVE DATE.—(1) Except as provided by  
 13 paragraph (2), the amendments made by this section shall  
 14 take effect October 1, 2004, and the amendments made  
 15 by subsections (a), (b), and (c) shall apply to agreements,  
 16 reenlistments, and the voluntary extension of enlistments  
 17 referred to in section 323(a) of title 37, United States  
 18 Code, entered into on or after that date.

19 (2) The amendments made by subsections (d)(1) and  
 20 (e)(2)(A) shall take effect December 31, 2004.

21 (g) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
 22 TIONS.—During fiscal year 2005, obligations incurred  
 23 under section 323 of title 37, United States Code, to pro-  
 24 vide retention bonuses to members of the uniformed serv-

ices using the expanded authority provided by the amendments made by subsections (a), (b), and (c) may not exceed \$10,000,000. The bonus authority available under such section shall not be considered to be an expanded authority to the extent that the authority was available under a provision of law specified in subsection (d), before the repeal of the provision by such subsection.

**SEC. 618. ELIGIBILITY OF NEW RESERVE COMPONENT OFFICERS FOR ACCESSION OR AFFILIATION  
BONUS FOR OFFICERS IN CRITICAL SKILLS.**

(a) ELIGIBILITY.—Subsection (a) of section 324 of title 37, United States Code, is amended to read as follows:

“(a) BONUS AUTHORIZED.—(1) The Secretary concerned may pay a bonus under this section—

“(A) to a person who executes a written agreement to accept a commission or an appointment as an officer of armed forces and serve on active duty in a designated critical officer skill or serve in a reserve component of an armed force in a designated critical officer skill; or

“(B) to an officer of an armed force, including a warrant officer, but excluding an officer who has previously served in the Selected Reserve or an officer who is entitled to retired pay, who executes a

1       written agreement to serve in a reserve component  
2       of an armed force in a designated critical officer  
3       skill after being discharged or released from active  
4       duty under honorable conditions, once the officer af-  
5       filiates with a unit or position in the reserve compo-  
6       nent.

7       “(2) The written agreement under paragraph (1) be-  
8       tween the Secretary concerned and a person or officer  
9       shall specify the period during which the person or officer  
10      will be required to serve in a designated critical officer  
11      skill to maintain entitlement to the bonus payment.”.

12      (b) AMOUNT OF BONUS.—Subsection (c) of such sec-  
13      tion is amended to read as follows:

14      “(c) AMOUNT OF BONUS.—The Secretary concerned  
15      shall determine the amount of a bonus to be paid under  
16      subsection (a), except that a person may not receive a total  
17      of more than \$60,000 in payments under this section”.

18      (c) CONFORMING AMENDMENTS.—Such section is  
19      further amended—

20              (1) in subsection (d), by striking “accession”  
21      both places it appears;

22              (2) in subsection (e)—

23                      (A) in the subsection heading, by striking  
24      “ACCESSION”; and



1 (B) by striking “an accession bonus” and  
2 inserting “a bonus”; and  
3 (3) in subsection (f), by striking “active duty”  
4 and “accession” each place it appears.

5 (d) CLERICAL AMENDMENTS.—(1) The heading of  
6 section 324 of such title is amended to read as follows:  
7 **“§ 324. Special pay: accession or affiliation bonus for**  
8 **officers in designated critical skills”.**

9 (2) The table of sections at the beginning of chapter  
10 5 of such title is amended by striking the item relating  
11 to section 324 and inserting the following new item:

“324. Special pay: accession or affiliation bonus for officers in designated critical skills.”.

12 (e) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect October 1, 2004, and apply  
14 to agreements referred to in section 324(a) of title 37,  
15 United States Code entered into on or after that date.

16 (f) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
17 TIONS.—During fiscal year 2005, obligations incurred  
18 under section 324 of title 37, United States Code, as  
19 amended by subsections (a) and (b), to provide accession  
20 and affiliation bonuses to members of the Armed Forces  
21 not previously eligible for such a bonus under such section  
22 may not exceed \$5,000,000.

1 **SEC. 619. ELIGIBILITY OF RESERVE COMPONENT MEMBERS**  
2 **FOR INCENTIVE BONUS FOR CONVERSION TO**  
3 **MILITARY OCCUPATIONAL SPECIALTY TO**  
4 **EASE PERSONNEL SHORTAGE.**

5 (a) **ELIGIBILITY.**—Section 326 of title 37, United  
6 States Code, is amended—

7 (1) in subsection (a), by inserting “of a regular  
8 or reserve component” after “an eligible member”;

9 (2) in subsection (b)—

10 (A) by striking “if—” and all that follows  
11 through “at the time” and inserting “if, at the  
12 time”; and

13 (B) by redesignating subparagraphs (A)  
14 and (B) as paragraphs (1) and (2), respectively;  
15 and

16 (3) in subsection (c)(2), by inserting “regular  
17 or reserve component of the” after “chief personnel  
18 officer of the”.

19 (b) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall take effect October 1, 2004, and apply  
21 to agreements referred to in section 326(a) of title 37,  
22 United States Code, entered into on or after that date.

23 (c) **LIMITATION ON FISCAL YEAR 2005 OBLIGA-**  
24 **TIONS.**—During fiscal year 2005, obligations incurred  
25 under section 326 of title 37, United States Code, as  
26 amended by subsection (a), to provide incentive bonuses

1 to members of a reserve component of the Armed Forces  
2 may not exceed \$3,000,000.

3 **SEC. 620. AVAILABILITY OF HAZARDOUS DUTY INCENTIVE**  
4 **PAY FOR MILITARY FIREFIGHTERS.**

5 (a) ADDITIONAL TYPE OF DUTY ENTITLED TO  
6 PAY.—Subsection (a) of section 301 of title 37, United  
7 States Code, is amended—

8 (1) by striking “or” at the end of paragraph  
9 (12);

10 (2) by redesignating paragraph (13) as para-  
11 graph (14); and

12 (3) by inserting after paragraph (12) the fol-  
13 lowing new paragraph:

14 “(13) involving regular participating as a fire-  
15 fighting crew member, as determined by the Sec-  
16 retary concerned; or”.’”.

17 (b) MONTHLY AMOUNT OF PAY.—Subsection (c) of  
18 such section is amended—

19 (1) in paragraph (1), by striking “(12)” and in-  
20 serting “(13)”; and

21 (2) in paragraph (2)(A), by striking “(13)” and  
22 inserting “(14)”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) and (b) shall take effect October 1, 2004.

## **Subtitle C—Travel and Transportation Allowances**

### **SEC. 631. EXPANSION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO ASSIST SURVIVORS OF A DECEASED MEMBER TO ATTEND BURIAL CEREMONY OF THE MEMBER.**

(a) AUTHORIZED TRAVEL LOCATIONS.—Subsection (b) of section 411f of title 37, United States Code, is amended to read as follows:

“(b) AUTHORIZED LOCATIONS FOR TRAVEL; DURATION AND RATES.—(1) The allowances under subsection (a) may be provided for travel and transportation by eligible relatives of the deceased member to the place selected pursuant to section 1482(a)(8) of title 10 for disposition of the remains of the deceased member.

“(2) The allowances may not exceed the rates for two days and the time necessary for the travel.”.

(b) ELIGIBLE RELATIVES.—Subsection (c)(1)(C) of such section is amended by striking “If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the” and inserting “The”.

(c) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 411f of title 37, United States Code, as

1 amended by subsections (a) and (b), to provide travel and  
2 transportation allowances, not previously available under  
3 such section, to survivors of deceased members of the uni-  
4 formed services, and to provide such allowances to persons  
5 not previously eligible for such allowances, may not exceed  
6 \$2,000,000.

7 **SEC. 632. TRANSPORTATION OF FAMILY MEMBERS INCI-**  
8 **DENT TO THE SERIOUS ILLNESS OR INJURY**  
9 **OF MEMBERS OF THE UNIFORMED SERVICES.**

10 (a) REMOVAL OF LIMITATION ON NUMBER OF FAM-  
11 ILY MEMBERS.—Subsection (a)(1) of section 411h of title  
12 37, United States Code, is amended by striking “not more  
13 than two family members” and inserting “a family mem-  
14 ber”.

15 (b) FAMILY MEMBERS DESCRIBED.—Subsection  
16 (b)(1) of such section is amended—

17 (1) by striking “and” at the end of subpara-  
18 graph (C);

19 (2) by striking the period at the end of sub-  
20 paragraph (D) and inserting “; and”; and

21 (3) by adding at the end the following new sub-  
22 paragraph:

23 “(E) other persons approved by the Secretary  
24 concerned.”.

1 (c) AVAILABILITY OF PER DIEM.—Such section is  
2 further amended—

3 (1) in subsection (a)(1), by inserting “travel  
4 and” before “transportation”; and

5 (2) in subsection (c)—

6 (A) by inserting “(1)” after “(c)” ; and

7 (B) by adding at the end the following new  
8 paragraph:

9 “(2) In addition to the transportation authorized by  
10 subsection (a), the Secretary concerned may provide a per  
11 diem allowance or reimbursement for the actual and nec-  
12 essary expenses of the travel, or a combination thereof,  
13 but not to exceed the rates established under section  
14 404(d) of this title.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on October 1, 2004, and apply  
17 to transportation described in section 411h of title 37,  
18 United States Code, provided on or after that date.

19 (e) LIMITATION ON FISCAL YEAR 2005 OBLIGA-  
20 TIONS.—During fiscal year 2005, obligations incurred  
21 under section 411h of title 37, United States Code, as  
22 amended by subsections (a) and (b), to provide travel and  
23 transportation allowances, not previously available under  
24 such section, to family members of seriously ill or injured  
25 members of the uniformed services, and to provide such

1 allowances to persons not previously eligible for such al-  
2 lowances, may not exceed \$3,000,000.

3 **SEC. 633. REIMBURSEMENT OF MEMBERS FOR CERTAIN**  
4 **LODGING COSTS INCURRED IN CONNECTION**  
5 **WITH STUDENT DEPENDENT TRAVEL.**

6 Section 430(b) of title 37, United States Code, is  
7 amended—

8 (1) by redesignating paragraphs (2) and (3) as  
9 paragraphs (3) and (4), respectively; and

10 (2) by inserting after paragraph (1) the fol-  
11 lowing new paragraph (2):

12 “(2) The transportation allowance paid to a member  
13 under paragraph (1) may include reimbursement, at a rate  
14 prescribed by the Secretaries concerned, for lodging costs  
15 incurred during the annual trip for which the allowance  
16 is paid when, for reasons beyond the control of the depend-  
17 ent child of the member, the child is required to procure  
18 accommodations while en route between the child’s school  
19 and the member’s duty station.”.

20 **Subtitle D—Retired Pay and**  
21 **Survivor Benefits**

22 **SEC. 641. COMPUTATION OF BENEFITS UNDER SURVIVOR**  
23 **BENEFIT PLAN FOR SURVIVING SPOUSES**  
24 **OVER AGE 62.**

25 (a) PHASED INCREASE IN BASIC ANNUITY.—

1 (1) STANDARD ANNUITY.—

2 (A) INCREASE TO 55 PERCENT.—Clause (i)  
3 of subsection (a)(1)(B) of section 1451 of title  
4 10, United States Code, is amended by striking  
5 “35 percent of the base amount.” and inserting  
6 “the product of the base amount and the per-  
7 cent applicable to the month, as follows:

8 “(I) For a month before October  
9 2005, the applicable percent is 35 percent.

10 “(II) For months after September  
11 2005 and before April 2006, the applicable  
12 percent is 40 percent.

13 “(III) For months after March 2006  
14 and before April 2007, the applicable per-  
15 cent is 45 percent.

16 “(IV) For months after March 2007  
17 and before April 2008, the applicable per-  
18 cent is 50 percent.

19 “(V) For months after March 2008,  
20 the applicable percent is 55 percent.”.

21 (B) COORDINATION WITH SAVINGS PROVI-  
22 SION UNDER PRIOR LAW.—Clause (ii) of such  
23 subsection is amended by striking “, at the time  
24 the beneficiary becomes entitled to the annu-  
25 ity,”.



1           (2) RESERVE-COMPONENT ANNUITY.—Sub-  
2       section (a)(2)(B)(i)(I) of such section is amended by  
3       striking “35 percent” and inserting “the percent  
4       specified under subsection (a)(1)(B)(i) as being ap-  
5       plicable for the month”.

6           (3) SURVIVORS OF ELIGIBLE PERSONS DYING  
7       ON ACTIVE DUTY, ETC.—

8           (A) INCREASE TO 55 PERCENT.—Clause (i)  
9       of subsection (c)(1)(B) of such section is  
10      amended—

11           (i) by striking “35 percent” and in-  
12          serting “the applicable percent”; and

13           (ii) by adding at the end the fol-  
14          lowing: “The percent applicable for a  
15          month under the preceding sentence is the  
16          percent specified under subsection  
17          (a)(1)(B)(i) as being applicable for that  
18          month.”.

19           (B) COORDINATION WITH SAVINGS PROVI-  
20       SION UNDER PRIOR LAW.—Clause (ii) of such  
21       subsection is amended by striking “, at the time  
22       the beneficiary becomes entitled to the annu-  
23       ity,”.

1           (4) CLERICAL AMENDMENT.—The heading for  
2           subsection (d)(2)(A) of such section is amended to  
3           read as follows: “COMPUTATION OF ANNUITY.—”.

4           (b) CORRESPONDING PHASED ELIMINATION OF SUP-  
5           PLEMENTAL ANNUITY.—

6           (1) PHASED REDUCTION OF SUPPLEMENTAL  
7           ANNUITY.—Section 1457(b) of title 10, United  
8           States Code, is amended—

9                   (A) by striking “5, 10, 15, or 20 percent”  
10                  and inserting “the applicable percent”; and

11                  (B) by inserting after the first sentence  
12                  the following: “The percent used for the com-  
13                  putation shall be an even multiple of 5 percent  
14                  and, whatever the percent specified in the elec-  
15                  tion, may not exceed 20 percent for months be-  
16                  fore October 2005, 15 percent for months after  
17                  September 2005 and before April 2006, 10 per-  
18                  cent for months after March 2006 and before  
19                  April 2007, and 5 percent for months after  
20                  March 2007 and before April 2008.”.

21           (2) REPEAL UPON IMPLEMENTATION OF 55  
22           PERCENT SBP ANNUITY.—Effective on April 1,  
23           2008, chapter 73 of such title is amended—

24                   (A) by striking subchapter III; and

1           (B) by striking the item relating to sub-  
2           chapter III in the table of subchapters at the  
3           beginning of that chapter.

4           (c) RECOMPUTATION OF ANNUITIES.—

5           (1) PERIODIC RECOMPUTATION REQUIRED.—  
6           Effective on the first day of each month specified in  
7           paragraph (2)—

8           (A) each annuity under section 1450 of  
9           title 10, United States Code, that commenced  
10          before that month, is computed under a provi-  
11          sion of section 1451 of that title amended by  
12          subsection (a), and is payable for that month  
13          shall be recomputed so as to be equal to the  
14          amount that would be in effect if the percent  
15          applicable for that month under that provision,  
16          as so amended, had been used for the initial  
17          computation of the annuity; and

18          (B) each supplemental survivor annuity  
19          under section 1457 of such title that com-  
20          menced before that month and is payable for  
21          that month shall be recomputed so as to be  
22          equal to the amount that would be in effect if  
23          the percent applicable for that month under  
24          that section, as amended by this section, had

1           been used for the initial computation of the  
2           supplemental survivor annuity.

3           (2) TIME FOR RECOMPUTATION.—The require-  
4           ment under paragraph (1) for recomputation of cer-  
5           tain annuities applies with respect to the following  
6           months:

7                   (A) October 2005.

8                   (B) April 2006.

9                   (C) April 2007.

10                  (D) April 2008.

11           (d) RECOMPUTATION OF RETIRED PAY REDUCTIONS  
12   FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Sec-  
13   retary of Defense shall take such actions as are neces-  
14   sitated by the amendments made by subsection (b) and  
15   the requirements of subsection (c)(1)(B) to ensure that  
16   the reductions in retired pay under section 1460 of title  
17   10, United States Code, are adjusted to achieve the objec-  
18   tives set forth in subsection (b) of that section.

19   **SEC. 642. OPEN ENROLLMENT PERIOD FOR SURVIVOR BEN-**  
20                   **EFIT PLAN COMMENCING OCTOBER 1, 2005.**

21           (a) PERSONS NOT CURRENTLY PARTICIPATING IN  
22   SURVIVOR BENEFIT PLAN.—

23                   (1) ELECTION OF SBP COVERAGE.—An eligible  
24           retired or former member may elect to participate in  
25           the Survivor Benefit Plan under subchapter II of

1 chapter 73 of title 10, United States Code, during  
2 the open enrollment period specified in subsection  
3 (f).

4 (2) ELECTION OF SUPPLEMENTAL ANNUITY  
5 COVERAGE.—An eligible retired or former member  
6 who elects under paragraph (1) to participate in the  
7 Survivor Benefit Plan at the maximum level may  
8 also elect during the open enrollment period to par-  
9 ticipate in the Supplemental Survivor Benefit Plan  
10 established under subchapter III of chapter 73 of  
11 title 10, United States Code.

12 (3) ELIGIBLE RETIRED OR FORMER MEMBER.—  
13 For purposes of paragraphs (1) and (2), an eligible  
14 retired or former member is a member or former  
15 member of the uniformed services who on the day  
16 before the first day of the open enrollment period is  
17 not a participant in the Survivor Benefit Plan and—

18 (A) is entitled to retired pay; or

19 (B) would be entitled to retired pay under  
20 chapter 1223 of title 10, United States Code,  
21 but for the fact that such member or former  
22 member is under 60 years of age.

23 (4) STATUS UNDER SBP OF PERSONS MAKING  
24 ELECTIONS.—

1           (A) STANDARD ANNUITY.—A person mak-  
2           ing an election under paragraph (1) by reason  
3           of eligibility under paragraph (3)(A) shall be  
4           treated for all purposes as providing a standard  
5           annuity under the Survivor Benefit Plan.

6           (B) RESERVE-COMPONENT ANNUITY.—A  
7           person making an election under paragraph (1)  
8           by reason of eligibility under paragraph (3)(B)  
9           shall be treated for all purposes as providing a  
10          reserve-component annuity under the Survivor  
11          Benefit Plan.

12       (b) ELECTION TO INCREASE COVERAGE UNDER  
13       SBP.—A person who on the day before the first day of  
14       the open enrollment period is a participant in the Survivor  
15       Benefit Plan but is not participating at the maximum base  
16       amount or is providing coverage under the Plan for a de-  
17       pendent child and not for the person's spouse or former  
18       spouse may, during the open enrollment period, elect to—

19           (1) participate in the Plan at a higher base  
20           amount (not in excess of the participant's retired  
21           pay); or

22           (2) provide annuity coverage under the Plan for  
23           the person's spouse or former spouse at a base  
24           amount not less than the base amount provided for  
25           the dependent child.

1       (c) ELECTION FOR CURRENT SBP PARTICIPANTS TO  
2 PARTICIPATE IN SUPPLEMENTAL SBP.—

3           (1) ELECTION.—A person who is eligible to  
4 make an election under this paragraph may elect  
5 during the open enrollment period to participate in  
6 the Supplemental Survivor Benefit Plan established  
7 under subchapter III of chapter 73 of title 10,  
8 United States Code.

9           (2) PERSONS ELIGIBLE.—Except as provided in  
10 paragraph (3), a person is eligible to make an elec-  
11 tion under paragraph (1) if on the day before the  
12 first day of the open enrollment period the person is  
13 a participant in the Survivor Benefit Plan at the  
14 maximum level, or during the open enrollment pe-  
15 riod the person increases the level of such participa-  
16 tion to the maximum level under subsection (b) of  
17 this section, and under that Plan is providing annu-  
18 ity coverage for the person's spouse or a former  
19 spouse.

20           (3) LIMITATION ON ELIGIBILITY FOR CERTAIN  
21 SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER  
22 ANNUITY COMPUTATION.—A person is not eligible to  
23 make an election under paragraph (1) if (as deter-  
24 mined by the Secretary concerned) the annuity of a  
25 spouse or former spouse beneficiary of that person

1       under the Survivor Benefit Plan will be computed  
2       under section 1451(e) of title 10, United States  
3       Code. However, such a person may during the open  
4       enrollment period waive the right to have that annu-  
5       ity computed under such section. Any such election  
6       is irrevocable. A person making such a waiver may  
7       make an election under paragraph (1) as in the case  
8       of any other participant in the Survivor Benefit  
9       Plan.

10       (d) MANNER OF MAKING ELECTIONS.—An election  
11       under this section must be made in writing, signed by the  
12       person making the election, and received by the Secretary  
13       concerned before the end of the open enrollment period.  
14       Any such election shall be made subject to the same condi-  
15       tions, and with the same opportunities for designation of  
16       beneficiaries and specification of base amount, that apply  
17       under the Survivor Benefit Plan or the Supplemental Sur-  
18       vivor Benefit Plan, as the case may be. A person making  
19       an election under subsection (a) to provide a reserve-com-  
20       ponent annuity shall make a designation described in sec-  
21       tion 1448(e) of title 10, United States Code.

22       (e) EFFECTIVE DATE FOR ELECTIONS.—Any such  
23       election shall be effective as of the first day of the first  
24       calendar month following the month in which the election  
25       is received by the Secretary concerned.



1       (f) OPEN ENROLLMENT PERIOD DEFINED.—The  
2 open enrollment period is the two-year period beginning  
3 on October 1, 2005.

4       (g) EFFECT OF DEATH OF PERSON MAKING ELEC-  
5 TION WITHIN TWO YEARS OF MAKING ELECTION.—If a  
6 person making an election under this section dies before  
7 the end of the two-year period beginning on the effective  
8 date of the election, the election is void and the amount  
9 of any reduction in retired pay of the person that is attrib-  
10 utable to the election shall be paid in a lump sum to the  
11 person who would have been the deceased person's bene-  
12 ficiary under the voided election if the deceased person  
13 had died after the end of such two-year period.

14       (h) APPLICABILITY OF CERTAIN PROVISIONS OF  
15 LAW.—The provisions of sections 1449, 1453, and 1454  
16 of title 10, United States Code, are applicable to a person  
17 making an election, and to an election, under this section  
18 in the same manner as if the election were made under  
19 the Survivor Benefit Plan or the Supplemental Survivor  
20 Benefit Plan, as the case may be.

21       (i) ADDITIONAL PREMIUM.—The Secretary of De-  
22 fense may require that the premium for a person making  
23 an election under subsection (a)(1) or (b) include, in addi-  
24 tion to the amount required under section 1452(a) of title  
25 10, United States Code, an amount determined under reg-

1   ulations prescribed by the Secretary of Defense for the  
2   purposes of this subsection. Any such amount shall be  
3   stated as a percentage of the base amount of the person  
4   making the election and shall reflect the number of years  
5   that have elapsed since the person retired, but may not  
6   exceed 4.5 percent of that person's base amount.

7       (j) REPORT CONCERNING OPEN SEASON.—Not later  
8   than July 1, 2005, the Secretary of Defense shall submit  
9   to the Committee on Armed Services of the Senate and  
10  the Committee on Armed Services of the House of Rep-  
11  resentatives a report on the open season authorized by this  
12  section for the Survivor Benefit Plan. The report shall in-  
13  clude the following:

14           (1) A description of the Secretary's plans for  
15       implementation of the open season.

16           (2) The Secretary's estimates of the costs asso-  
17       ciated with the open season, including any antici-  
18       pated effect of the open season on the actuarial sta-  
19       tus of the Department of Defense Military Retire-  
20       ment Fund.

21           (3) Any recommendation by the Secretary for  
22       further legislative action.

1 **SEC. 643. SOURCE OF FUNDS FOR SURVIVOR BENEFIT**  
2 **PLAN ANNUITIES FOR DEPARTMENT OF DE-**  
3 **FENSE BENEFICIARIES OVER AGE 62.**

4 (a) IN GENERAL.—Chapter 74 of title 10, United  
5 States Code, is amended as follows:

6 (1) Section 1465(b) of such title is amended by  
7 adding at the end the following new paragraph:

8 “(4) At the same time that the Secretary of Defense  
9 makes the determination required by paragraph (1) for  
10 any fiscal year, the Secretary shall determine the amount  
11 of the Treasury contribution to be made to the Fund for  
12 the next fiscal year under section 1466(b)(2)(E) of this  
13 title. That amount shall be determined in the same man-  
14 ner as the determination under paragraph (1) of the total  
15 amount of Department of Defense contributions to be  
16 made to the Fund during that fiscal year under section  
17 1466(a) of this title, except that for purposes of this para-  
18 graph the Secretary, in making the calculations required  
19 by subparagraphs (A) and (B) of that paragraph, shall  
20 use the single level percentages determined under sub-  
21 section (c)(5), rather than those determined under sub-  
22 section (c)(1).”.

23 (4) Section 1465(c) of such title is amended—

24 (A) in paragraph (1)—

25 (i) in subparagraph (A), by inserting  
26 before the semicolon at the end the fol-

1           lowing: “and as if benefits under  
2           subchapter II of chapter 73 of this title for  
3           beneficiaries 62 years of age and older  
4           were computed for any fiscal year on the  
5           basis of the percentage of 35 percent, rather  
6           than any percentage otherwise applica-  
7           ble for that computation for that fiscal  
8           year”; and

9           (ii) in subparagraph (B), by inserting  
10          before the period at the end the following:  
11          “and as if benefits under subchapter II of  
12          chapter 73 of this title for beneficiaries 62  
13          years of age and older were computed for  
14          any fiscal year on the basis of the percent-  
15          age of 35 percent, rather than any percent-  
16          age otherwise applicable for that computa-  
17          tion for that fiscal year”;

18          (B) by redesignating paragraph (5) as  
19          paragraph (6); and

20          (C) by inserting after paragraph (4) the  
21          following new paragraph (5):

22          “(5) Whenever the Secretary carries out an actuarial  
23          valuation under paragraph (1), the Secretary shall include  
24          as part of such valuation the following:

1           “(A) A determination of a single level percent-  
2           age determined in the same manner as applies under  
3           subparagraph (A) of paragraph (1), but determined  
4           as if benefits under subchapter II of chapter 73 of  
5           this title for beneficiaries 62 years of age and older  
6           were computed for any fiscal year on the basis of the  
7           percentage of 35 percent, rather than any percent-  
8           age otherwise applicable for that computation for  
9           that fiscal year.

10           “(B) A determination of a single level percent-  
11           age determined in the same manner as applies under  
12           subparagraph (B) of paragraph (1), but determined  
13           as if benefits under subchapter II of chapter 73 of  
14           this title for beneficiaries 62 years of age and older  
15           were computed for any fiscal year on the basis of the  
16           percentage of 35 percent, rather than any percent-  
17           age otherwise applicable for that computation for  
18           that fiscal year.

19   Such single level percentages shall be used for the pur-  
20   poses of subsection (b)(4).”.

21           (5) Section 1466(b) of such title is amended—

22                   (A) in paragraph (1), by inserting  
23                   “1465(b)(4),” after “1465(b)(3),”; and

24                   (B) by adding at the end of paragraph (2)  
25           the following new subparagraph:

1           “(E) The amount for that year determined by  
2           the Secretary of Defense under section 1465(b)(4)  
3           of this title for the cost to the Fund arising from in-  
4           creased amounts payable from the Fund by reason  
5           of benefits under subchapter II of chapter 73 of this  
6           title for beneficiaries 62 years of age and older being  
7           computed for any fiscal year on the basis of the per-  
8           centage greater than 35 percent.”.

9           (b) EFFECTIVE DATE.—The amendments made by  
10          subsection (a) shall take effect as of October 1, 2004. If  
11          this Act is enacted after that date, the Secretary of De-  
12          fense shall provide for such administrative adjustments as  
13          necessary to provide for payments made for any period  
14          during fiscal year 2005 before the date of the enactment  
15          of this Act to be treated as having been made in accord-  
16          ance with such amendments and for the provisions of  
17          those amendments to be implemented as if enacted as of  
18          September 30, 2004.

1 **Subtitle E—Commissary and Non-**  
 2 **appropriated Fund Instrumen-**  
 3 **talities Benefits**

4 **SEC. 651. CONSOLIDATION AND REORGANIZATION OF LEG-**  
 5 **ISLATIVE PROVISIONS REGARDING DEFENSE**  
 6 **COMMISSARY SYSTEM AND EXCHANGES AND**  
 7 **OTHER MORALE, WELFARE, AND RECRE-**  
 8 **ATION ACTIVITIES.**

9 (a) PROVISIONS RELATED TO COMMISSARY  
 10 STORES.—Chapter 147 of title 10, United States Code,  
 11 is amended—

12 (1) by striking the table of sections at the be-  
 13 ginning of the chapter and sections 2481, 2483,  
 14 2485, and 2487;

15 (2) by redesignating sections 2482, 2484, and  
 16 2486 as sections 2485, 2483 and 2484, respectively;

17 (3) by inserting after the chapter heading the  
 18 following:

“Subchapter	Sec.
“I. Defense Commissary System .....	2481
“II. Relationship, Continuation, and Common Policies of Defense Com- missary and Exchange Systems .....	2487
“III. Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities .....	2491

19 “SUBCHAPTER I—DEFENSE COMMISSARY  
 20 SYSTEM

“Sec.

“2481. Existence and purpose of defense commissary system.

“2482. Commissary stores: criteria for establishment or closure; store size.

“2483. Commissary stores: use of appropriated funds to cover operating expenses.

“2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.

“2485. Commissary stores: operation.

1 **“§ 2481. Existence and purpose of defense com-**  
 2 **missary system**

3       “(a) EXISTENCE OF SYSTEM.—The Secretary of the  
 4 Defense shall operate, using funds appropriated to the De-  
 5 partment of Defense, a world-wide system of commissary  
 6 stores that sell, at reduced prices, food and other merchan-  
 7 dise consistent with societal norms for product selection  
 8 in commercial large-scale grocery stores in the United  
 9 States to members of the uniformed services on active  
 10 duty, members of the uniformed services entitled to retired  
 11 pay, dependents of such members, and patrons authorized  
 12 to use the system under chapter 54 of this title.

13       “(b) PURPOSE OF SYSTEM.—The purpose of the de-  
 14 fense commissary system is to enhance the quality of life  
 15 of members of the uniformed services, retired members,  
 16 dependents of such members, and other authorized pa-  
 17 trons and to provide such members with an additional  
 18 nonmonetary compensation in recognition of their service  
 19 to the United States.

20       “(c) REDUCES PRICES DEFINED.—In this section,  
 21 the term ‘reduced prices’ means prices for food and other  
 22 merchandise determined using the price setting process  
 23 specified in section 2484 of this title.



1   **“§ 2482. Commissary stores: criteria for establishment**  
2                   **or closure; store size**

3           “(a) PRIMARY CONSIDERATION FOR ESTABLISH-  
4 MENT.—The needs of members of the uniformed services  
5 on active duty and their dependents shall be the primary  
6 consideration whenever the Secretary of Defense—

7                   “(1) assesses the need to establish a com-  
8 missary store; and

9                   “(2) selects the actual location for the store.

10          “(b) STORE SIZE.—In determining the size of a com-  
11 missary store, the Secretary of Defense shall take into  
12 consideration the number of all authorized patrons of the  
13 defense commissary system who are likely to use the store.

14          “(c) CLOSURE CONSIDERATIONS.—(1) Whenever as-  
15 sessing whether to close a commissary store, the effect of  
16 the closure on the quality of life of members of the uni-  
17 formed services and their dependents using the store and  
18 on the welfare and security of the military community in  
19 which the commissary is located shall be the primary con-  
20 sideration. In all cases, the quality of life for military pa-  
21 trons shall take priority over any consideration of eco-  
22 nomic criteria relative to store financial performance.

23          “(2) The Secretary of Defense shall give the quality  
24 of life for members of a reserve component the same pri-  
25 ority as the quality of life for active duty members when-  
26 ever assessing whether to close a commissary store, includ-

1 ing when the assessment is undertaken as a result of the  
2 closure or realignment of a military installation under a  
3 base closure law.

4 “(d) CONGRESSIONAL NOTIFICATION.—The closure  
5 of a commissary store shall not take effect until the end  
6 of the 90-day period beginning on the date on which the  
7 Secretary of Defense submits to Congress written notice  
8 of the reasons supporting the closure. The written notice  
9 shall include an assessment of the impact closure will have  
10 on the quality of life for military patrons and the welfare  
11 and security of the military community in which the com-  
12 missary is located.”;

13 (4) by inserting sections 2483 and 2484, as re-  
14 designated by paragraph (2), after section 2482, as  
15 added by paragraph (3);

16 (5) in section 2484, as redesignated by para-  
17 graph (2)—

18 (A) by striking subsections (a), (b), (c),  
19 and (g);

20 (B) by redesignating subsections (d), (e),  
21 and (f) as subsections (f), (g), and (h), respec-  
22 tively;

23 (C) by inserting before subsection (f), as so  
24 redesignated, the following new subsections:

1       “(a) IN GENERAL.—As provided in section 2481(a)  
2 of this title, commissary stores are intended to be similar  
3 to commercial grocery stores and may sell merchandise  
4 similar to that sold in commercial grocery stores. The Sec-  
5 retary of Defense shall ensure that the design and format  
6 of commissary stores are consistent with modern grocery  
7 store stockage and format.

8       “(b) REQUIRED COMMISSARY MERCHANDISE CAT-  
9 EGORIES.—Merchandise sold in, at, or by commissary  
10 stores shall include items in the following categories:

11               “(1) Meat, poultry, and seafood.

12               “(2) Nonalcoholic beverages.

13               “(3) Produce.

14               “(4) Grocery food, whether stored chilled, fro-  
15 zen, or at room temperature.

16               “(5) Dairy products.

17               “(6) Bakery and delicatessen items.

18               “(7) Nonfood grocery items.

19               “(8) Health and beauty aids.

20               “(9) Magazines and periodicals.

21               “(10) Telephone cards, greeting cards, and film  
22 and one-time use cameras.

23       “(c) INCLUSION OF GENERAL MERCHANDISE  
24 ITEMS.—(1) Among the various defense retail systems—

1           “(A) commissary stores shall be the primary  
2       Department of Defense-operated store for the sale of  
3       items described in paragraphs (1) through (7) of  
4       subsection (b); and

5           “(B) exchange stores shall continue to maintain  
6       the exclusive right to operate convenience stores,  
7       shopettes, and troop stores, including such stores es-  
8       tablished to support contingency operations.

9           “(2) Merchandise sold in commissary stores may in-  
10      clude such general merchandise items as the Secretary of  
11      Defense may prescribe, except that the Secretary may not  
12      exclude seasonal items, tobacco products, pet supplies,  
13      batteries, potted plants and floral bouquets, women’s ho-  
14      siery, and school supplies, to the extent such products  
15      have been available in commissary stores before June 1,  
16      2004, unless the Secretary determines that space or other  
17      considerations preclude the sale of all or some of the speci-  
18      fied items. The Secretary shall provide notice to Congress  
19      of any reduction in the availability of such items at least  
20      30 days before the reduction takes effect.

21          “(3) A military exchange may be considered as the  
22      vendor for the purchase of tobacco products, greeting  
23      cards, and film and one-time use cameras and shall serve  
24      as the vendor for telephone cards. Subsections (e) and (f)  
25      shall not apply to the pricing of such an item when a mili-

1 tary exchange serves as the vendor of the item. Com-  
2 missary store and exchange prices shall be comparable for  
3 such an item.

4 “(4) During the two-year period ending March 31,  
5 2007, the Secretary shall maintain sales data for com-  
6 missary stores and exchange stores regarding the items  
7 identified in subsection (b)(10). Not later than August 1,  
8 2007, the Secretary shall submit to Congress a report con-  
9 taining such sales data.

10 “(d) EXCLUDED GOODS OR SERVICES.—Commissary  
11 stores shall not offer film development services.

12 “(e) UNIFORM SALES PRICE SURCHARGE.—The Sec-  
13 retary of Defense shall apply a uniform surcharge equal  
14 to not more than five percent on the sales prices estab-  
15 lished under subsection (f) for each item of merchandise  
16 sold in, at, or by commissary stores.”;

17 (D) in subsection (f), as so redesignated,  
18 by striking “(consistent with this section and  
19 section 2685 of this title)” in paragraph (1);

20 (E) in subsection (h), as so redesignated,  
21 by striking “Subsections (c) and (d)” and in-  
22 serting “Subsections (e) and (f)”;

23 (F) by adding at the end the following new  
24 subsection:

1       “(i) USE OF SURCHARGE FOR CONSTRUCTION, RE-  
2 PAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The  
3 Secretary of Defense may use the proceeds from the sur-  
4 charges imposed under subsection (e) only—

5           “(i) to acquire (including acquisition by lease),  
6 construct, convert, expand, improve, repair, main-  
7 tain, and equip the physical infrastructure of com-  
8 missary stores and central product processing facili-  
9 ties of the defense commissary system; and

10          “(ii) to cover environmental evaluation and con-  
11 struction costs related to activities described in  
12 clause (i), including costs for surveys, administra-  
13 tion, overhead, planning, and design.

14       “(B) In subparagraph (A), the term ‘physical infra-  
15 structure’ includes real property, utilities, and equipment  
16 (installed and free standing and including computer equip-  
17 ment), necessary to provide a complete and usable com-  
18 missary store or central product processing facility.

19       “(2)(A) The Secretary of Defense may authorize a  
20 nonappropriated fund instrumentality of the United  
21 States to enter into a contract for construction of a shop-  
22 ping mall or similar facility for a commissary store and  
23 one or more nonappropriated fund instrumentality activi-  
24 ties. The Secretary may use the proceeds of surcharges  
25 under subsection (e) to reimburse the nonappropriated

1 fund instrumentality for the portion of the cost of the con-  
2 tract that is attributable to construction of the com-  
3 missary store or to pay the contractor directly for that  
4 portion of such cost.

5 “(B) In subparagraph (A), the term ‘construction’,  
6 with respect to a facility, includes acquisition, conversion,  
7 expansion, installation, or other improvement of the facil-  
8 ity.

9 “(3) The Secretary of Defense, with the approval of  
10 the Director of the Office of Management and Budget,  
11 may obligate anticipated proceeds from the surcharges  
12 under subsection (e) for any use specified in paragraph  
13 (1) or (2), without regard to fiscal year limitations, if the  
14 Secretary determines that such obligation is necessary to  
15 carry out any use of such adjustments or surcharges speci-  
16 fied in such paragraph.

17 “(4) Revenues received by the Secretary of Defense  
18 from the following sources or activities of commissary  
19 store facilities shall be available for the purposes set forth  
20 in paragraphs (1), (2), and (3):

21 “(A) Sale of recyclable materials.

22 “(B) Sale of excess and surplus property.

23 “(C) License fees.

24 “(D) Royalties.

1           “(E) Fees paid by sources of products in order  
2           to obtain favorable display of the products for resale,  
3           known as business related management fees.”;

4           (6) by inserting section 2485, as redesignated  
5           by paragraph (2), after section 2484, as amended by  
6           paragraph (5); and

7           (7) in section 2485, as redesignated by para-  
8           graph (2)—

9           (A) in subsection (a)(2), by adding at the  
10          end the following new sentence: “Until Decem-  
11          ber 31, 2009, the Defense Commissary Agency  
12          is not required to conduct any cost-comparison  
13          study under the policies and procedures of Of-  
14          fice of Management and Budget Circular A-76  
15          relating to the possible contracting out of com-  
16          missary store functions.”;

17          (B) in subsection (b)(2), by striking “sec-  
18          tion 2484” and inserting “section 2483”;

19          (C) in subsection (c)(2), by adding at the  
20          end the following new sentences: “The chair-  
21          man of the governing board shall be a commis-  
22          sioned officer or member of the senior executive  
23          service who has demonstrated experience or  
24          knowledge relevant to the management of the  
25          defense commissary system. In selecting other



1           members of the governing board, the Secretary  
2           shall give priority to persons with experience re-  
3           lated to logistics, military personnel, military  
4           entitlements or other experiences of value of  
5           management of commissaries.”; and

6                     (D) by adding at the end the following new  
7           subsections:

8           “(d) ASSIGNMENT OF ACTIVE DUTY MEMBERS.—(1)  
9   Except as provided in paragraph (2), members of the  
10   armed forces on active duty may not be assigned to the  
11   operation of a commissary store.

12           “(2)(A) The Secretary of Defense may assign an offi-  
13   cer on the active-duty list to serve as the Director of the  
14   Defense Commissary Agency.

15           “(B) Not more than 18 members (in addition to the  
16   officer referred to in subparagraph (A)) of the armed  
17   forces on active duty may be assigned to the Defense Com-  
18   missary Agency. Members who may be assigned under this  
19   subparagraph to regional headquarters of the agency shall  
20   be limited to enlisted members assigned to duty as advis-  
21   ers in the regional headquarters responsible for overseas  
22   commissaries and to veterinary specialists.

23           “(e) REIMBURSEMENT FOR USE OF COMMISSARY FA-  
24   CILITIES BY MILITARY DEPARTMENTS.—(1) The Sec-  
25   retary of a military department shall pay the Defense

1 Commissary Agency the amount determined under para-  
2 graph (2) for any use of a commissary facility by the mili-  
3 tary department for a purpose other than commissary  
4 sales or operations in support of commissary sales.

5 “(2) The amount payable under paragraph (1) for  
6 use of a commissary facility by a military department shall  
7 be equal to the share of depreciation of the facility that  
8 is attributable to that use, as determined under regula-  
9 tions prescribed by the Secretary of Defense.

10 “(3) The Director of the Defense Commissary Agency  
11 shall credit amounts paid under paragraph (1) for use of  
12 a facility to an appropriate account to which proceeds of  
13 a surcharge applied under section 2484(e) of this title are  
14 credited.

15 “(4) This subsection applies with respect to a com-  
16 missary facility that is acquired, constructed, converted,  
17 expanded, installed, or otherwise improved (in whole or in  
18 part) with the proceeds of a surcharge applied under sec-  
19 tion 2484(e) of this title.

20 “(f) DONATION OF UNUSABLE FOOD.—(1) The Sec-  
21 retary of Defense may donate food described in paragraph  
22 (2) to any of the following entities:

23 “(A) A charitable nonprofit food bank that is  
24 designated by the Secretary of Defense or the Sec-

1       retary of Health and Human Services as authorized  
2       to receive such donations.

3           “(B) A State or local agency that is designated  
4       by the Secretary of Defense or the Secretary of  
5       Health and Human Services as authorized to receive  
6       such donations.

7           “(C) A chapter or other local unit of a recog-  
8       nized national veterans organization that provides  
9       services to persons without adequate shelter and is  
10      designated by the Secretary of Veterans Affairs as  
11      authorized to receive such donations.

12          “(D) A not-for-profit organization that provides  
13      care for homeless veterans and is designated by the  
14      Secretary of Veterans Affairs as authorized to re-  
15      ceive such donations.

16          “(2) Food that may be donated under this subsection  
17      is commissary store food, mess food, meals ready-to-eat  
18      (MREs), rations known as humanitarian daily rations  
19      (HDRs), and other food available to the Secretary of De-  
20      fense that—

21           “(A) is certified as edible by appropriate food  
22      inspection technicians;

23           “(B) would otherwise be destroyed as unusable;  
24      and

1           “(C) in the case of commissary store food, is  
2           unmarketable and unsaleable.

3           “(3) In the case of commissary store food, a donation  
4           under this subsection shall take place at the site of the  
5           commissary store that is donating the food.

6           “(4) This subsection does not authorize any service  
7           (including transportation) to be provided in connection  
8           with a donation under this subsection.

9           “(g) COLLECTION OF DISHONORED CHECKS.—(1)  
10          The Secretary of Defense may impose a charge for the  
11          collection of a check accepted at a commissary store that  
12          is not honored by the financial institution on which the  
13          check is drawn. The imposition and amounts of charges  
14          shall be consistent with practices of commercial grocery  
15          stores regarding dishonored checks.

16          “(2)(A) The following persons are liable to the United  
17          States for the amount of a check referred to in paragraph  
18          (1) that is returned unpaid to the United States, together  
19          with any charge imposed under that paragraph:

20                 “(i) The person who presented the check.

21                 “(ii) Any person whose status and relationship  
22                 to the person who presented the check provide the  
23                 basis for that person’s eligibility to make purchases  
24                 at a commissary store.

1       “(B) Any amount for which a person is liable under  
2 subparagraph (A) may be collected by deducting and with-  
3 holding such amount from any amounts payable to that  
4 person by the United States.

5       “(3) Amounts collected as charges imposed under  
6 paragraph (1) shall be credited to the commissary trust  
7 revolving fund.

8       “(4) Appropriated funds may be used to pay any  
9 costs incurred in the collection of checks and charges re-  
10 ferred to in paragraph (1). An appropriation account  
11 charged a cost under the preceding sentence shall be reim-  
12 bursed the amount of that cost out of funds in the com-  
13 missary trust revolving fund.

14       “(5) In this subsection, the term ‘commissary trust  
15 revolving fund’ means the trust revolving fund maintained  
16 by the Department of Defense for surcharge collections  
17 and proceeds of sales of commissary stores.

18       “(h) RELEASE OF CERTAIN COMMERCIALY VALU-  
19 ABLE INFORMATION TO PUBLIC.—(1) The Secretary of  
20 Defense may limit the release to the public of any informa-  
21 tion described in paragraph (2) if the Secretary deter-  
22 mines that it is in the best interest of the Department  
23 of Defense to limit the release of such information. If the  
24 Secretary determines to limit the release of any such infor-

1 mation, the Secretary may provide for limited release of  
2 such information in accordance with paragraph (3).

3 “(2) Paragraph (1) applies to the following:

4 “(A) Information contained in the computerized  
5 business systems of commissary stores or the De-  
6 fense Commissary Agency that is collected through  
7 or in connection with the use of electronic scanners  
8 in commissary stores, including the following infor-  
9 mation:

10 “(i) Data relating to sales of goods or serv-  
11 ices.

12 “(ii) Demographic information on cus-  
13 tomers.

14 “(iii) Any other information pertaining to  
15 commissary transactions and operations.

16 “(B) Business programs, systems, and applica-  
17 tions (including software) relating to commissary op-  
18 erations that were developed with funding derived  
19 from commissary surcharges.

20 “(3)(A) The Secretary of Defense may, using com-  
21 petitive procedures, enter into a contract to sell informa-  
22 tion described in paragraph (2).

23 “(B) The Secretary of Defense may release, without  
24 charge, information on an item sold in commissary stores

1 to the manufacturer or producer of that item or an agent  
2 of the manufacturer or producer.

3 “(C) The Secretary of Defense may, by contract en-  
4 tered into with a business, grant to the business a license  
5 to use business programs referred to in paragraph (2)(B),  
6 including software used in or comprising any such pro-  
7 gram. The fee charged for the license shall be based on  
8 the costs of similar programs developed and marketed by  
9 businesses in the private sector, determined by means of  
10 surveys.

11 “(D) Each contract entered into under this para-  
12 graph shall specify the amount to be paid for information  
13 released or a license granted under the contract, as the  
14 case may be.

15 “(4) Information described in paragraph (2) may not  
16 be released, under paragraph (3) or otherwise, in a form  
17 that identifies any customer or that provides information  
18 making it possible to identify any customer.

19 “(5) Amounts received by the Secretary under this  
20 section shall be credited to funds derived from commissary  
21 surcharges applied under section 2484(e) of this title,  
22 shall be merged with those funds, and shall be available  
23 for the same purposes as the funds with which merged.”.

1 (b) RELATION BETWEEN DEFENSE COMMISSARY  
 2 AND EXCHANGE SYSTEMS.—Chapter 147 of title 10,  
 3 United States Code, is further amended—

4 (1) by inserting after section 2485, as amended  
 5 by subsection (a)(7), the following:

6 “SUBCHAPTER II—RELATIONSHIP, CONTINU-  
 7 ATION, AND COMMON POLICIES OF DE-  
 8 FENSE COMMISSARY AND EXCHANGE SYS-  
 9 TEMS

“Sec.

“2487. Existence and purpose of defense commissary system.

“2488. Combined exchange and commissary stores.

“2489. Overseas commissary and exchange stores: access and purchase restric-  
 tions.

10 **“§ 2487. Relationship between defense commissary**  
 11 **system and exchange stores system**

12 “(a) SEPARATE SYSTEMS.—(1) Except as provided in  
 13 paragraph (2), the defense commissary system and the ex-  
 14 change stores system shall be operated as separate sys-  
 15 tems of the Department of Defense.

16 “(2) Paragraph (1) does not apply to the following:

17 “(A) Combined exchange and commissary  
 18 stores operated under the authority provided by sec-  
 19 tion 2489 of this title.

20 “(B) NEXMART stores of the Navy Exchange  
 21 Service Command established before October 1,  
 22 2003.



1       “(b) CONSOLIDATION OR OTHER ORGANIZATIONAL  
2 CHANGES OF DEFENSE RETAIL SYSTEMS.—(1) The oper-  
3 ation and administration of the defense retail systems may  
4 not be consolidated or otherwise merged unless the con-  
5 solidation or merger is specifically authorized by an Act  
6 of Congress.

7       “(2) In this subsection, the term ‘defense retail sys-  
8 tems’ means the defense commissary system and exchange  
9 stores system and other revenue-generating facilities oper-  
10 ated by nonappropriated fund instrumentalities of the De-  
11 partment of Defense for the morale, welfare, and recre-  
12 ation of members of the armed forces”;

13               (2) by redesignating sections 2488, 2489,  
14 2489a as sections 2495, 2495a, and 2495b, respec-  
15 tively; and

16               (3) by redesignating sections 2490a and 2492  
17 as sections 2488 and 2489, respectively, and insert-  
18 ing such sections after section 2487, as added by  
19 paragraph (1).

20       (c) MWR PROGRAMS AND NONAPPROPRIATED FUND  
21 INSTRUMENTALITIES.—Chapter 147 of title 10, United  
22 States Code, is further amended—

23               (1) by inserting after section 2489, as redesign-  
24 nated and moved by subsection (b)(3), the following:

1 “SUBCHAPTER III—MORALE, WELFARE, AND  
 2 RECREATION PROGRAMS AND NON-  
 3 APPROPRIATED FUND INSTRUMENTAL-  
 4 ITIES

“Sec.

“2491. Uniform funding and management of morale, welfare, and recreation programs.

“2491a. Department of Defense golf courses: limitation on use of appropriated funds.

“2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.

“2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.

“2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.

“2493. Fisher Houses: administration as nonappropriated fund instrumentality.

“2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.

“2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.

“2495a. Overseas package stores: treatment of United States wines.

“2495b. Sale or rental of sexually explicit material prohibited.”;

5 (2) by redesignating section 2494 as section  
 6 2491 and inserting such section after the table of  
 7 sections at the beginning of subchapter III, as added  
 8 by paragraph (1);

9 (3) by redesignating section 2482a as section  
 10 2492 and inserting such section before section 2493;

11 (4) by inserting after section 2493 the following  
 12 new section:

13 **“§ 2494. Nonappropriated fund instrumentalities: fur-**  
 14 **nishing utility services for morale, wel-**  
 15 **fare, and recreation purposes**

16 “Appropriations for the Department of Defense may  
 17 be used to provide utility services for—

1           “(1) buildings on military installations author-  
2           ized by regulation to be used for morale, welfare,  
3           and recreation purposes; and

4           “(2) other morale, welfare, and recreation ac-  
5           tivities for members of the armed forces.”; and

6           (5) by inserting sections 2495, 2495a, and  
7           2495b, as redesignated by subsection (b)(2), after  
8           section 2494, as added by paragraph (4).

9           (d) INCLUSION OF OTHER TITLE 10 PROVISIONS.—  
10          Sections 2246, 2247, and 2219 of title 10, United States  
11          Code, are—

12           (1) transferred to chapter 147 of such title;

13           (2) inserted after section 2491, as redesignated  
14           and moved by subsection (c)(2); and

15           (3) redesignated as sections 2491a, 2491b, and  
16           2491c, respectively.

17           (e) CONFORMING AMENDMENTS.—(1) Section 977 of  
18          title 10, United States Code, is repealed.

19           (2) Section 2868 of such title is amended by striking  
20          “for—” and all that follows through the period at the end  
21          and inserting “for buildings constructed at private cost,  
22          as authorized by law.”.

23           (3) Section 367 of the Strom Thurmond National De-  
24          fense Authorization Act for Fiscal Year 1999 (Public Law

1 105–261; 112 Stat. 1987; 10 U.S.C. 2482 note) is re-  
 2 pealed.

3 (f) CLERICAL AMENDMENTS.—(1) The table of sec-  
 4 tions at the beginning of chapter 49 of title 10, United  
 5 States Code, is amended by striking the item relating to  
 6 section 977.

7 (2) The table of sections at the beginning of chapter  
 8 132 of such title is amended by striking the item relating  
 9 to section 2219.

10 (3) The table of sections at the beginning of sub-  
 11 chapter I of chapter 134 of such title is amended by strik-  
 12 ing the items relating to sections 2246 and 2247.

13 **SEC. 652. CONSISTENT STATE TREATMENT OF DEPART-**  
 14 **MENT OF DEFENSE NONAPPROPRIATED**  
 15 **FUND HEALTH BENEFITS PROGRAM.**

16 Section 349 of the National Defense Authorization  
 17 Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat.  
 18 2727) is amended by adding at the end the following new  
 19 subsection:

20 “(c) TREATMENT OF PROGRAM AS FEDERAL  
 21 HEALTH BENEFIT PROGRAM.—(1) No State tax, fee,  
 22 other monetary payment, or State health plan require-  
 23 ment, may be imposed, directly or indirectly, on the Non-  
 24 appropriated Fund Uniform Health Benefits Program of  
 25 the Department of Defense, or on a carrier or an under-

1 writing or plan administration contractor of the Program,  
2 to the same extent as such prohibition applies to the  
3 health insurance program authorized by chapter 89 of title  
4 5, United States Code, under section 8909(f) of such title.

5 “(2) Paragraph (1) shall not be construed to exempt  
6 the Nonappropriated Fund Uniform Health Benefits Pro-  
7 gram of the Department of Defense, or any carrier or un-  
8 derwriting or plan administration contractor of the Pro-  
9 gram from the imposition, payment, or collection of a tax,  
10 fee, or other monetary payment on the net income or prof-  
11 it accruing to, or realized by, the Program or by such car-  
12 rier or contractor from business conducted under the Pro-  
13 gram, so long as the tax, fee, or payment is applicable  
14 to a broad range of business activity.

15 “(3) In this section, the term ‘State’ means each of  
16 the several States, the District of Columbia, the Common-  
17 wealth of Puerto Rico, the United States Virgin Islands,  
18 Guam, American Samoa, and the Commonwealth of the  
19 Northern Mariana Islands, and any political subdivision  
20 or other non-Federal authority thereof.”.

1 **SEC. 653. COOPERATION AND ASSISTANCE FOR QUALIFIED**  
2 **SCOUTING ORGANIZATIONS SERVING DE-**  
3 **PENDENTS OF MEMBERS OF THE ARMED**  
4 **FORCES AND CIVILIAN EMPLOYEES OVER-**  
5 **SEAS.**

6 (a) AUTHORITY TO COOPERATE AND PROVIDE AS-  
7 SISTANCE.—Subsection (a) of section 2606 of title 10,  
8 United States Code, is amended—

9 (1) in subsection (a), by striking “Subject to  
10 subsection (b)” and inserting “In the interest of pro-  
11 moting the recognized morale, welfare, and recre-  
12 ation of members of the armed forces”; and

13 (2) in subsection (b), by striking “and may”  
14 and all that follows through “armed forces”.

15 (b) TREATMENT OF ORGANIZATIONS AND EMPLOY-  
16 EES.—Such section is further amended—

17 (1) by striking subsections (e) and (f);

18 (2) by redesignating subsections (c) and (d) as  
19 subsections (e) and (f), respectively; and

20 (3) by inserting after subsection (b) the fol-  
21 lowing new subsections:

22 “(c) TREATMENT AS NONAPPROPRIATED FUND IN-  
23 STRUMENTALITIES.—(1) Subject to paragraphs (2) and  
24 (3), to the extent a qualified scouting organization is pro-  
25 viding services for members of the armed forces and their  
26 dependents, or civilian employees of the Department of

1 Defense and their dependents, at a location outside the  
2 United States consistent with the regulations prescribed  
3 under subsection (b), the qualified scouting organization  
4 shall be a nonappropriated fund instrumentality of the De-  
5 partment of Defense.

6 “(2) Notwithstanding treatment as a non-  
7 appropriated fund instrumentality of the Department of  
8 Defense, personnel of the qualified scouting organization  
9 who are performing duties in connection with cooperation  
10 and assistance provided under subsection (a) may continue  
11 such policies and procedures related to personnel manage-  
12 ment and such other policies or procedures established by  
13 the qualified scouting organization as the personnel con-  
14 sider appropriate, subject to the approval of the qualified  
15 scouting organization.

16 “(3) A qualified scouting organization operating out-  
17 side the United States may operate as a private associa-  
18 tion overseas for the purpose of raising funds. Any funds  
19 so raised may not be commingled with amounts retained  
20 in a nonappropriated morale, welfare, and recreation ac-  
21 count of the Department of Defense.

22 “(d) TREATMENT AS NONAPPROPRIATED FUND IN-  
23 STRUMENTALITY EMPLOYEES.—(1) Personnel of a quali-  
24 fied scouting organization who are performing duties in  
25 connection with cooperation and assistance provided under

1 subsection (a) for members of the armed forces and their  
2 dependents, or civilian employees of the Department of  
3 Defense and their dependents, shall be nonappropriated  
4 fund instrumentality employees of the United States for  
5 any period during which the personnel perform such du-  
6 ties.

7 “(2) Such personnel of a qualified scouting organiza-  
8 tion shall receive the same benefits, entitlements, and  
9 logistical support as other nonappropriated fund instru-  
10 mentality employees, except that such personnel—

11 “(A) shall be allowed to decline to participate in  
12 retirement programs or other personnel management  
13 policies or procedures available to other non-  
14 appropriated fund instrumentality employees and  
15 elect to continue the programs, policies or proce-  
16 dures made available by the qualified scouting orga-  
17 nization; and

18 “(B) shall not receive nonappropriated fund in-  
19 strumentality employment credit nor rehire priority.

20 “(3) In the regulations prescribed under subsection  
21 (b), the Secretary of Defense may authorize the use of  
22 funds appropriated to the Department of Defense to pay  
23 costs of such personnel of a qualified scouting organiza-  
24 tion, including reimbursement of the personnel or the  
25 qualified scouting organization, in the case of those retire-



1 ment, personnel management, and other compensation  
2 programs regarding which the personnel have elected to  
3 continue the programs made available to them by the  
4 qualified scouting organization.”.

5 (c) CONFORMING AND CLERICAL AMENDMENTS.—  
6 Such section is further amended—

7 (1) in subsection (a), by inserting “AUTHORITY  
8 TO COOPERATE AND PROVIDE ASSISTANCE.—” after  
9 “(a)”;

10 (2) in subsection (c), by inserting “BASIS FOR  
11 COOPERATION AND ASSISTANCE.—”;

12 (3) in subsection (e), as redesignated by sub-  
13 section (b)(2)—

14 (A) by inserting “PROVISION OF TRANS-  
15 PORTATION, SPACE, AND SERVICES.—” after  
16 “(e)”;

17 (B) in the matter preceding paragraph (1),  
18 by inserting “, using the authority of subsection  
19 (d)(3)” after “furnished”;

20 (4) in subsection (f), as redesignated by sub-  
21 section (b)(2), by inserting “TRANSPORTATION OF  
22 SUPPLIES.—” after “(f)”;

23 (5) in subsection (g), by inserting “DEFINI-  
24 TION.—” after “(g)”.

## **Subtitle F—Other Matters**

**SEC. 661. REPEAL OF REQUIREMENT THAT MEMBERS ENTITLED TO BASIC ALLOWANCE FOR SUBSISTENCE PAY SUBSISTENCE CHARGES WHILE HOSPITALIZED.**

(a) REPEAL.—(1) Section 1075 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 1075.

(b) CONFORMING AMENDMENT REGARDING MILITARY-CIVILIAN HEALTH SERVICES PARTNERSHIP PROGRAM.—Section 1096(c) of such title is amended—

(1) by inserting “who is a dependent” after “covered beneficiary”; and

(2) by striking “shall pay” and all that follows through the period at the end of paragraph (2) and inserting “shall pay the charges prescribed by section 1078 of this title.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

1 **SEC. 662. CLARIFICATION OF EDUCATION LOANS QUALI-**  
2 **FYING FOR EDUCATION LOAN REPAYMENT**  
3 **PROGRAM FOR RESERVE COMPONENT**  
4 **HEALTH PROFESSIONS OFFICERS.**

5 Section 16302(a)(5) of title 10, United States Code,  
6 is amended by inserting “a basic professional qualifying  
7 degree (as determined under regulations prescribed by the  
8 Secretary of Defense) or graduate education in” after “re-  
9 garding”.

10 **SEC. 663. SURVEY AND ANALYSIS OF EFFECT OF EXTENDED**  
11 **AND FREQUENT MOBILIZATION OF RESERV-**  
12 **ISTS FOR ACTIVE DUTY SERVICE ON RESERV-**  
13 **IST INCOME.**

14 (a) SURVEY OF MOBILIZED RESERVISTS TO DETER-  
15 MINE DIFFERENTIAL BETWEEN PRIVATE SECTOR IN-  
16 COME AND MILITARY COMPENSATION.—(1) The Secretary  
17 of Defense shall conduct a survey involving members of  
18 the reserve components who serve, or have served, on ac-  
19 tive duty in support of a contingency operation at any time  
20 during the period beginning on September 11, 2001, and  
21 ending on September 30, 2005, to determine the extent  
22 to which such members sustained a reduction in monthly  
23 income during the period of the active duty service com-  
24 pared to the average monthly civilian income of the mem-  
25 bers during the 12 months preceding their mobilization.

1       (2) At least 50 percent of the total number of mem-  
2       bers of the reserve components who have served on active  
3       duty in support of a contingency operation at any time  
4       during the period specified in paragraph (1) shall be in-  
5       cluded in the survey.

6       (b) CALCULATION OF INCOME DIFFERENTIAL.—For  
7       each member surveyed under subsection (a) who reports  
8       that total monthly military compensation during the active  
9       duty service of the member was less, or appeared to be  
10      less, than the average monthly civilian income of the mem-  
11      ber, the Secretary of Defense, in cooperation with the  
12      member, shall calculate the monthly active-duty income  
13      differential for the member.

14      (c) DEFINITIONS USED IN CONDUCTING SURVEY  
15      AND CALCULATIONS.—In this section:

16           (1) The term “monthly active-duty income dif-  
17           ferential”, with respect to a member of a reserve  
18           component surveyed under subsection (a), means the  
19           difference between—

20                   (A) the average monthly civilian income of  
21                   the member; and

22                   (B) the total monthly military compensa-  
23                   tion of the member.

24           (2) The term “average monthly civilian in-  
25           come”, with respect to a member of a reserve com-

1       ponent surveyed under subsection (a), means the  
2       amount, determined by the Secretary of Defense, of  
3       the earned income of the member for the 12 months  
4       preceding the first mobilization of the member dur-  
5       ing the period specified in subsection (a)(1), divided  
6       by 12.

7           (3) The term “total monthly military compensa-  
8       tion”, with respect to a member of a reserve compo-  
9       nent surveyed under subsection (a), means the  
10      amount, computed on a monthly basis, of the sum  
11      of—

12           (A) the amount of the regular military  
13      compensation (RMC), as defined in section  
14      101(25) of title 37, United States Code, of the  
15      member during the period specified in sub-  
16      section (a)(1); and

17           (B) any amount of special pay or incentive  
18      pay and any allowance (other than an allowance  
19      included in regular military compensation) that  
20      is paid to the member on a monthly basis dur-  
21      ing the period specified in subsection (a)(1).

22      (d) COLLECTION OF DEMOGRAPHIC DATA.—The  
23      Secretary of Defense shall collect demographic data re-  
24      garding each member of a reserve component surveyed

1 under subsection (a), including, at a minimum, data on  
2 the following:

3 (1) Reserve component.

4 (2) Unit of assignment.

5 (3) Grade.

6 (4) Age.

7 (5) Years of service.

8 (6) Sex.

9 (7) Marital status.

10 (8) Number of dependents.

11 (9) General category of private-sector employ-  
12 ment, as determined by the Secretary, but to include  
13 an employment category to cover members who are  
14 self-employed.

15 (10) Military occupational specialty, including  
16 specifying all surveyed members who are serving in  
17 a critical wartime specialty.

18 (11) Length of service on active duty during  
19 the most recent mobilization.

20 (12) Number of times mobilized since Sep-  
21 tember 11, 2001.

22 (e) EFFECT OF INCOME LOSS ON RETENTION.—The  
23 Secretary of Defense shall include in the survey a question  
24 to solicit information from each member of a reserve com-  
25 ponent surveyed under subsection (a) regarding the likely

1 effect of a reoccurring monthly active-duty income dif-  
2 ferential for the member while serving on active duty on  
3 the decision of the member to remain in the reserve com-  
4 ponent.

5 (f) ANALYSIS OF SURVEY DATA.—(1) At a minimum,  
6 the Secretary of Defense shall determine, for each variable  
7 listed in paragraphs (2) through (12) of subsection (d),  
8 the number of members of the reserve components sur-  
9 veyed under subsection (a) who sustained a monthly ac-  
10 tive-duty income differential for any month during their  
11 active duty service and compare and contrast that number  
12 with the number of members who did not experience a  
13 monthly active-duty income differential.

14 (2) The Secretary shall also determine the average  
15 amount of the active-duty income differential by reserve  
16 component for each variable within the characteristics list-  
17 ed in paragraphs (2) through (12) of subsection (d).

18 (g) SUBMISSION OF SURVEY RESULTS AND REC-  
19 OMMENDATIONS.—Not later than January 31, 2006, the  
20 Secretary of Defense shall submit to Congress and the  
21 Comptroller General a report containing the results of the  
22 surveys conducted under subsection (a), including the re-  
23 sults of the analysis of survey data required by subsection  
24 (e). The Secretary shall include such recommendations as  
25 the Secretary considers appropriate regarding alternatives

1 for restoring income lost by members of the reserve com-  
2 ponents who sustained a monthly active-duty income dif-  
3 ferential during their active duty service.

4 (h) COMPTROLLER GENERAL EVALUATION.—Not  
5 later than March 31, 2006, the Comptroller General shall  
6 submit to Congress an assessment of the findings and rec-  
7 ommendations contained in the report of the Secretary of  
8 Defense submitted under subsection (g).

9 **TITLE VII—HEALTH CARE**  
10 **PROVISIONS**  
11 **Subtitle A—Enhanced Benefits for**  
12 **Reserves**

13 **SEC. 701. DEMONSTRATION PROJECT FOR TRICARE COV-**  
14 **ERAGE FOR READY RESERVE MEMBERS.**

15 (a) DEMONSTRATION PROGRAM.—Section 1076b of  
16 title 10, United States Code, is amended to read as fol-  
17 lows:

18 **“§ 1076b. TRICARE demonstration project: coverage**  
19 **for members of the Ready Reserve**

20 “(a) IN GENERAL.—(1) The Secretary of Defense  
21 shall conduct a demonstration project beginning in fiscal  
22 year 2005 to test whether TRICARE coverage for certain  
23 Ready Reserve members and their families enhances med-  
24 ical readiness and retention of such members.



1       “(2) Under the demonstration project required by  
2 paragraph (1), within the scope of the project, as estab-  
3 lished by the Secretary, members of the Ready Reserve  
4 may be allowed to enroll for coverage under the TRICARE  
5 Standard option of the TRICARE program and receive  
6 benefits under such enrollment for any period that the  
7 member—

8               “(A) is not eligible for health care benefits  
9       under an employer-sponsored health benefits plan;  
10       and

11              “(B) either—

12                      “(i) is not on active duty; or

13                      “(ii) is on active duty but under a call or  
14       order to active duty for a period of 30 days or  
15       less.

16       “(3) A member allowed to enroll in TRICARE Stand-  
17 ard under the demonstration project may enroll for self-  
18 only coverage or self and family coverage.

19       “(b) SCOPE OF COVERAGE .—A member and the de-  
20 pendants of a member enrolled in TRICARE Standard  
21 under this section shall be entitled to the same benefits  
22 and shall pay the same charges as are provided under sec-  
23 tion 1079 of this title.

24       “(c) PREMIUMS.—(1) The Secretary of Defense shall  
25 charge premiums for coverage pursuant to enrollments

1 under this section. The Secretary shall prescribe a pre-  
2 mium for self only coverage and a premium for self and  
3 family coverage.

4 “(2) The monthly amount of the premium in effect  
5 for a month for a type of coverage under this section shall  
6 be the amount equal to 28 percent of the total amount  
7 determined by the Secretary on an appropriate actuarial  
8 basis as being reasonable for the coverage.

9 “(3) The premiums payable by a member under this  
10 subsection may be deducted and withheld from basic pay  
11 payable to the member under section 204 of title 37 or  
12 from compensation payable to the member under section  
13 206 of such title. The Secretary shall prescribe the re-  
14 quirements and procedures applicable to the payment of  
15 premiums by members not entitled to such basic pay or  
16 compensation.

17 “(4) Amounts collected as premiums under this sub-  
18 section shall be credited to the appropriation available for  
19 the Defense Health Program Account under section 1100  
20 of this title, shall be merged with sums in such Account  
21 that are available for the fiscal year in which collected,  
22 and shall be available under subparagraph (B) of such sec-  
23 tion for such fiscal year.

24 “(d) CONDITIONS OF ELIGIBILITY.—(1) The Sec-  
25 retary of Defense may establish other conditions of eligi-

1 bility, including requiring a member to submit any certifi-  
2 cation that the Secretary considers appropriate to sub-  
3 stantiate the member's assertion that the member is not  
4 eligible for health care benefits under any other health  
5 benefits plan.

6       “(2) In the case of any member who is self-employed  
7 and not eligible for coverage under any other employer-  
8 sponsored health benefits plan, the member shall not be  
9 considered eligible to enroll under this section if the mem-  
10 ber's income in the prior calendar year exceeded \$40,000.

11       “(e) SCOPE AND TERMS OF DEMONSTRATION  
12 PROJECT.—The geographic scope and priorities for enroll-  
13 ment under the demonstration program, if any, shall be  
14 established by the Secretary of Defense. The Secretary  
15 may establish such other terms and conditions for the  
16 demonstration project required by subsection (a) as the  
17 Secretary determines appropriate to accomplish its pur-  
18 poses.

19       “(f) TERMINATION OF AUTHORITY.—An enrollment  
20 in TRICARE under this section may not continue after  
21 December 31, 2007.

22       “(g) EVALUATION OF DEMONSTRATION AND REPORT  
23 TO CONGRESS.—Not later than March 1, 2007, the Sec-  
24 retary shall provide to Congress a report on the results  
25 of the demonstration project required by this section. Such

1 report shall include an analysis of the impact of the dem-  
2 onstration on medical readiness and retention of the mem-  
3 bers who enrolled, an assessment of the costs and benefits  
4 of any improvements in medical readiness or retention,  
5 and recommendations concerning TRICARE Standard  
6 coverage for Ready Reserve members.

7 “(h) DEFINITION.—In this section, the term  
8 ‘TRICARE Standard’ means the option of the TRICARE  
9 program that is also known as the Civilian Health and  
10 Medical Program of the Uniformed Services, as defined  
11 in section 1072(4) of this title.”.

12 (b) TERMINATION OF COVERAGE UNDER SUPER-  
13 SEDED PROVISION OF LAW.—An enrollment in TRICARE  
14 under section 1076b of title 10, United States Code, as  
15 in effect before the date of the enactment of this Act may  
16 not continue after such date.

17 (c) SITE IDENTIFICATION.—(1) Not later than 60  
18 days after the date of enactment of this Act, the Secretary  
19 of Defense, in consultation with the Committees on Armed  
20 Services of the Senate and the House of Representatives,  
21 shall identify not less than 10 sites that meet the criteria  
22 specified in paragraph (2) for the conduct of the dem-  
23 onstration project required under section 1076b of title  
24 10, United States Code, as amended by this section.

1       (2) For purposes of paragraph (1), the sites selected  
2 for the conduct of the demonstration project shall be areas  
3 of the United States that include a substantial number  
4 of personnel expected to be ordered to active duty for a  
5 period of more than 30 days.

6       (d) INDEPENDENT EVALUATION AND REPORTS.—(1)  
7 The Comptroller General shall conduct an evaluation of  
8 the demonstration project required under section 1076b  
9 of title 10, United States Code (as amended by this sec-  
10 tion) The evaluation shall include an assessment of the  
11 following:

12           (A) Compliance by the Department of Defense  
13 with the requirements under section 1076b of title  
14 10, United States Code (as amended by this sec-  
15 tion).

16           (B) A description of the effects of the dem-  
17 onstration project on medical readiness and reten-  
18 tion of the participants compared to nonparticipants.

19           (C) The number of Ready Reserve members  
20 and their dependents opting to participate in the  
21 demonstration project.

22           (D) An analysis of how the demonstration  
23 project affects the overall accessibility of care in the  
24 direct and purchased care systems and a description

1 of the unintended effects (if any) upon the normal  
2 treatment priority system.

3 (E) A description of the difficulties (if any) ex-  
4 perienceed by the Department of Defense in man-  
5 aging the demonstration project.

6 (F) Any impact of the demonstration project on  
7 employers, including causing them to discontinue  
8 health care insurance benefits for employees who are  
9 members of the reserves.

10 (G) A recommendation whether to extend the  
11 demonstration project or make the project perma-  
12 nent.

13 (H) A determination of whether the terms and  
14 conditions of the demonstration project should be  
15 continued or modified if the project is extended or  
16 expanded.

17 (I) Implications on cost, medical readiness, re-  
18 cruitment, and retention if the demonstration project  
19 was made available to all reservists meeting the en-  
20 rollment criteria throughout the United States and  
21 its territories.

22 (J) Any additional elements that the Comp-  
23 troller General determines are appropriate to assess  
24 the demonstration project.

1       (2) The Comptroller General shall submit to the  
2 Committees on Armed Services of the Senate and the  
3 House of Representatives—

4           (A) an interim report on the evaluation under  
5 this section not later than 12 months after the date  
6 on which the demonstration project begins operation;  
7 and

8           (B) a final report on the evaluation under this  
9 section not later than March 1, 2007.

10 **SEC. 702. COMPTROLLER GENERAL REPORT ON THE COST**  
11 **AND FEASIBILITY OF PROVIDING PRIVATE**  
12 **HEALTH INSURANCE STIPENDS FOR MEM-**  
13 **BERS OF THE READY RESERVES.**

14       (a) **STUDY REQUIRED.**—The Comptroller General  
15 shall conduct a study on the cost and feasibility of pro-  
16 viding a stipend to members of the Ready Reserves to off-  
17 set the cost of continuing private health insurance cov-  
18 erage for the member's dependents when the member is  
19 on active duty for a period of more than 30 days, with  
20 the dependents being ineligible to enroll in the TRICARE  
21 program and payment of the stipend ending when the  
22 member is no longer on active duty.

23       (b) **MATTERS COVERED.**—The study shall include the  
24 following matters:

1           (1) Recommendation for a benefit amount and  
2           cost to the Department of Defense.

3           (2) Potential effects on medical readiness, re-  
4           cruitment, and retention.

5           (3) The extent to which the Reserves and mem-  
6           bers of their families might participate under the sti-  
7           pend program.

8           (4) Administrative and management consider-  
9           ations for the Department of Defense.

10          (5) Impact of pre-existing conditions on con-  
11          tinuity of care for dependents.

12          (6) Possible implications for employers.

13          (c) REPORT.—Not later than March 31, 2005, the  
14          Comptroller General shall submit to the Committee on  
15          Armed Services of the Senate and the Committee on  
16          Armed Services of the House of Representatives a report  
17          containing the results of the study under this section.

18      **SEC. 703. IMPROVEMENT OF MEDICAL SERVICES FOR ACTI-**  
19                              **VATED MEMBERS OF THE READY RESERVE**  
20                              **AND THEIR FAMILIES.**

21          (a) REQUIREMENT FOR TRICARE COVERAGE FOR  
22          DEPENDENTS OF MEMBERS OF RESERVE COMPONENTS  
23          CALLED TO ACTIVE DUTY.—Paragraph (1) of section  
24          1074(d) of title 10, United States Code, is amended—



1           (1) by inserting “a dependent of” after “chap-  
2       ter,”;

3           (2) by inserting “a dependent of a member”  
4       after “treated as being”; and

5           (3) by striking “the later of” and all that fol-  
6       lows through the period at the end of subparagraph  
7       (B) and inserting “the date described in paragraph  
8       (3).”.

9       (b) AUTHORITY FOR TRICARE COVERAGE FOR  
10   MEMBERS OF RESERVE COMPONENTS CALLED TO AC-  
11   TIVE DUTY.—Section 1074(d) of such title is further  
12   amended—

13           (1) by striking paragraph (3);

14           (2) by redesignating paragraph (2) as para-  
15       graph (4); and

16           (3) by inserting after paragraph (1) the fol-  
17       lowing new paragraphs:

18       “(2) The Secretary of Defense may, beginning on the  
19       date described in paragraph (3), provide a member of a  
20       reserve component of the armed forces who is issued a  
21       delayed-effective-date active-duty order, or is covered by  
22       such an order, such medical and dental care (in addition  
23       to care for which the member is eligible under section  
24       1074a(f) of this title or other provisions of law) the Sec-  
25       retary determines appropriate.

1 “(3) The date referred to in paragraphs (1) and (2)  
2 with respect to a member is the later of the date that is—

3 “(A) the date of the issuance of the delayed-ef-  
4 fective-date active-duty order; or

5 “(B) 90 days before the date on which the pe-  
6 riod of active duty is to commence under such order  
7 for that member.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect on January 1, 2005.

10 **SEC. 704. MODIFICATION OF WAIVER OF CERTAIN**  
11 **DEDUCTIBLES UNDER TRICARE PROGRAM.**

12 Section 1095d(a) of title 10, United States Code, is  
13 amended in paragraphs (1) and (2) by striking “less than  
14 one year” each place it appears and inserting “more than  
15 30 days”.

16 **SEC. 705. AUTHORITY FOR PAYMENT BY UNITED STATES OF**  
17 **ADDITIONAL AMOUNTS BILLED BY HEALTH**  
18 **CARE PROVIDERS TO ACTIVATED RESERVE**  
19 **MEMBERS.**

20 Section 1079(h) of title 10, United States Code, is  
21 amended by adding at the end of paragraph (4) the fol-  
22 lowing new subparagraph:

23 “(C) In the case of services billed to a dependent re-  
24 ferred to in subsection (a) of a member of a reserve com-  
25 ponent who is ordered to active duty for a period of more

1 than 30 days in support of a contingency operation under  
 2 a provision of law referred to in section 101(a)(13)(B) of  
 3 this title, the regulations shall provide that, in addition  
 4 to amounts otherwise payable by the United States, the  
 5 Secretary may pay the amount referred to in subpara-  
 6 graph (B)(i) for the services.”.

7 **SEC. 706. EXTENSION OF TRANSITIONAL HEALTH CARE**  
 8 **BENEFITS AFTER SEPARATION FROM ACTIVE**  
 9 **DUTY.**

10 (a) EXTENSION OF TRANSITIONAL HEALTH CARE  
 11 BENEFITS.—Paragraph (3) of section 1145(a) of title 10,  
 12 United States Code, is amended to read as follows:

13 “(3) Transitional health care shall be available under  
 14 this subsection for a period beginning on the date on  
 15 which the member is separated from active duty and end-  
 16 ing on the earlier of—

17 “(A) 180 days after the date on which the  
 18 member is separated from active duty; or

19 “(B) the date on which the member and de-  
 20 pendants of the member are covered by a health plan  
 21 sponsored by an employer.”.

22 (b) LIMITATION.—During the period beginning on  
 23 January 1, 2005, and ending on September 30, 2005, not  
 24 more than \$170,000,000 of the amount appropriated pur-  
 25 suant to the authorization for operations and maintenance

1 for the Defense Health Program in section 303(a) may  
 2 be used for transitional health care under section 1145(a)  
 3 of title 10, United States Code, as amended by this sec-  
 4 tion.

5 (c) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall apply with respect to separations from  
 7 active duty that take effect on or after January 1, 2005.

## 8 **Subtitle B—Other Benefits**

### 9 **Improvements**

#### 10 **SEC. 711. COVERAGE OF CERTAIN YOUNG CHILDREN**

#### 11 **UNDER TRICARE DENTAL PROGRAM.**

12 (a) COVERAGE OF CERTAIN YOUNG CHILDREN.—  
 13 Section 1076a(k)(2) of title 10, United States Code, is  
 14 amended by inserting after “by reason of” the following:  
 15 “the dependent’s young age on the date of death of the  
 16 member of”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 subsection (a) shall take effect on the date of the enact-  
 19 ment of this Act.

#### 20 **SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION**

#### 21 **OF HEALTH AND SUPPORT SERVICES FOR EX-**

#### 22 **CEPTIONAL FAMILY MEMBER PROGRAM EN-**

#### 23 **ROLLEES.**

24 (a) EVALUATION REQUIREMENT.—The Comptroller  
 25 General shall evaluate the effect of the Exceptional Family

1 Member Program (in this section referred to as “EFMP”)  
2 on health and support services in selected civilian commu-  
3 nities near military installations with a high concentration  
4 of EFMP enrollees.

5 (b) MATTERS COVERED.—The evaluation under sub-  
6 section (a) shall include a discussion of the following:

7 (1) Communities that have high concentrations  
8 of EFMP enrollees that use State and local health  
9 and support services.

10 (2) Needs of EFMP enrollees, if any, that are  
11 not met by State and local health and support serv-  
12 ices.

13 (3) The burdens, financial and otherwise,  
14 placed on State and local health and support serv-  
15 ices by EFMP enrollees and their families.

16 (4) The ability of the TRICARE program to  
17 meet the needs of EFMP enrollees and their fami-  
18 lies.

19 (5) Reasons for any limitations of the  
20 TRICARE program, the EFMP, and State and local  
21 health and support services in providing assistance  
22 to EFMP enrollees and their families.

23 (6) Recommendations for more effectively meet-  
24 ing the needs of EFMP enrollees and their families.

1       (c) COMMUNITIES COVERED.—The evaluation under  
2 subsection (a) shall examine no fewer than four civilian  
3 communities, as determined by the Comptroller General,  
4 that have high concentrations of EFMP enrollees and that  
5 are near several military installations, including at least  
6 two military installations with tenants from more than one  
7 of the Armed Forces.

8       (d) DEFINITIONS.—In this section:

9           (1) The term “health and support services”  
10 means services provided to children and other de-  
11 pendents with special needs, including specialized  
12 day care, mental health day treatment services, res-  
13 pite services, counseling, and other such services  
14 provided for children and other dependents with spe-  
15 cial needs.

16          (2) The term “TRICARE program” has the  
17 meaning given that term in section 1072(7) of title  
18 10, United States Code.

19       (e) REPORT.—Not later than March 31, 2005, the  
20 Comptroller General shall submit to the Armed Services  
21 Committees of the Senate and the House of Representa-  
22 tives a report on the results of the evaluation required  
23 under subsection (a), with findings and recommendations.

1 **SEC. 713. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME**  
2 **REMOTE.**

3 Section 1079(p) of title 10, United States Code, is  
4 amended—

5 (1) by redesignating paragraph (4) as para-  
6 graph (5); and

7 (2) by inserting after paragraph (3) the fol-  
8 lowing new paragraph:

9 “(4) The Secretary of Defense may provide for cov-  
10 erage of a dependent referred to in subsection (a) who is  
11 not described in paragraph (3) if the Secretary determines  
12 that exceptional circumstances warrant such coverage.”.

13 **SEC. 714. TRANSITION TO HOME HEALTH CARE BENEFIT**  
14 **UNDER SUB-ACUTE CARE PROGRAM.**

15 Section 1074j of title 10, United States Code, is  
16 amended in subsection (b)(3)—

17 (1) by inserting “(A)” after “(3)”; and

18 (2) by adding at the end the following:

19 “(B) The Secretary of Defense shall establish proce-  
20 dures for the transition to and implementation of the  
21 home health care benefit required by subparagraph (A).  
22 The Secretary may provide in such procedures that cov-  
23 ered beneficiaries who, before the implementation of such  
24 benefit, received home health care under this chapter in  
25 excess of such benefit, may continue to receive such care  
26 for such time as the Secretary considers appropriate.”.

1 **SEC. 715. REQUIREMENT RELATING TO PRESCRIPTION**  
2 **DRUG BENEFITS FOR MEDICARE-ELIGIBLE**  
3 **ENROLLEES UNDER DEFENSE HEALTH CARE**  
4 **PLANS.**

5 Section 1074g(a)(6) of title 10, United States Code,  
6 is amended—

7 (1) by inserting “(A)” after “(6)”; and

8 (2) by adding at the end the following:

9 “(B) For a medicare-eligible beneficiary, the  
10 cost-sharing requirements may not be in excess of  
11 the cost-sharing requirements applicable to all other  
12 beneficiaries covered by section 1086 of this title.  
13 For purposes of the preceding sentence, a medicare-  
14 eligible beneficiary is a beneficiary eligible for health  
15 benefits under section 1086 of this title pursuant to  
16 subsection (d)(2) of such section.”.

17 **SEC. 716. PROFESSIONAL ACCREDITATION OF MILITARY**  
18 **DENTISTS.**

19 Section 1077(c) of title 10, United States Code, is  
20 amended—

21 (1) by striking “A” and inserting “(1) Except  
22 as provided in paragraph (2), a”; and

23 (2) by adding at the end the following new  
24 paragraph:

25 “(2)(A) Dependents who have not attained age 13  
26 and who are participating under a dental plan established



1 under section 1076a of this title may be treated by post-  
2 graduate dental students in eligible dental treatment fa-  
3 cilities if—

4 “(i)(I) treatment of pediatric dental patients is  
5 required to comply with American Dental Associa-  
6 tion accreditation standards; or

7 “(II) pediatric dental training is required to en-  
8 able post-graduate dental students to provide dental  
9 care for such dependents outside the United States;  
10 and

11 “(ii) there are insufficient numbers of children  
12 eligible to be provided dental care under section  
13 1076(a) of this title to meet such standards or train-  
14 ing requirements.

15 “(B) The total number of dependents who may be  
16 treated under this paragraph may not exceed 2,000 in any  
17 fiscal year.

18 “(C) In this paragraph, an eligible dental treatment  
19 facility is a dental treatment facility with a post-graduate  
20 dental education program accredited by the American  
21 Dental Association.”.

1 **SEC. 717. ADDITION OF CERTAIN UNREMARIED FORMER**  
2 **SPOUSES TO PERSONS ELIGIBLE FOR DEN-**  
3 **TAL INSURANCE PLAN OF RETIREES OF THE**  
4 **UNIFORMED SERVICES.**

5 (a) ELIGIBILITY OF CERTAIN FORMER SPOUSES FOR  
6 DENTAL COVERAGE.—(1) Section 1076c(b) of title 10,  
7 United States Code, is amended by adding at the end the  
8 following new paragraph:

9 “(6) A person who—

10 “(i) is an unremarried former spouse of a  
11 member described in paragraph (1) or (2);

12 “(i) is described in section 1072(2)(F)(i)  
13 of this title; and

14 “(ii) does not have dental coverage under  
15 an employer-sponsored health plan.”.

16 (b) EFFECTIVE DATE.—Section 1076c(b)(6) of title  
17 10, United States Code, as added by subsection (a), shall  
18 take effect on the date of the enactment of this Act.

19 **SEC. 718. WAIVER OF COLLECTION OF PAYMENTS DUE**  
20 **FROM CERTAIN PERSONS UNAWARE OF LOSS**  
21 **OF CHAMPUS ELIGIBILITY.**

22 (a) AUTHORITY TO WAIVE COLLECTION.—The Sec-  
23 retary of Defense may waive (in whole or in part) the col-  
24 lection of payments otherwise due from a person described  
25 in subsection (b) as a result of the receipt by the person  
26 of health benefits under section 1086 of title 10, United

1 States Code, after the termination of the person's eligi-  
2 bility for such benefits and may also authorize continued  
3 coverage of benefits under section 1086 of such title for  
4 such person for the period described in subsection (c).

5 (b) PERSONS ELIGIBLE.—A person shall be eligible  
6 for relief under subsection (a) if the person—

7 (1) is a person described in paragraph (1) of  
8 subsection (d) of section 1086, of title 10, United  
9 States Code;

10 (2) in the absence of such paragraph, would  
11 have been eligible for health benefits under such sec-  
12 tion;

13 (3) at the time of the receipt of such benefits,  
14 satisfies the criteria specified in subparagraph (B) of  
15 paragraph (2) of such subsection; and

16 (4) was unaware of the loss of eligibility to re-  
17 ceive health benefits at the time they were received.

18 (c) EXTENT OF AUTHORITY.—The authority to waive  
19 the collection of payments and to continue coverage of  
20 benefits under this section shall apply during the period  
21 beginning on July 1, 1999, and ending on December 31,  
22 2004, under terms established by the Secretary of De-  
23 fense.

24 (d) QUARTERLY REPORTS.—(1) The Secretary of  
25 Defense shall provide quarterly reports to the Committees

1 on Armed Services of the Senate and House of Represent-  
2 atives regarding—

3 (A) efforts by the Department of Defense to  
4 identify persons who satisfy the criteria specified in  
5 subparagraph (B) of subsection (d)(2) of section  
6 1086 of title 10, United States Code, and would be  
7 eligible for health benefits under such section if the  
8 criteria specified in subparagraph (A) were also sat-  
9 isfied; and

10 (B) actions taken by the Department with re-  
11 spect to persons identified under subparagraph (B)  
12 of this paragraph.

13 (2) The first report under paragraph (1) shall be sub-  
14 mitted not later than 30 days after the end of the first  
15 quarter of fiscal year 2005.

16 **Subtitle C—Planning,**  
17 **Programming, and Management**

18 **SEC. 721. PILOT PROGRAM FOR TRANSFORMATION OF**  
19 **HEALTH CARE DELIVERY.**

20 (a) FINDINGS.—(1) Congress finds the following:

21 (A) Historically, providing military health care  
22 to military beneficiaries has centered on building a  
23 military medical treatment facility and providing a  
24 full range of services on a military installation.

1           (B) Traditionally, in many locations the major-  
2           ity of military personnel and their dependents who  
3           are eligible beneficiaries of the military health care  
4           system do not live on military installations.

5           (C) As the cost of repairing, replacing, recapitalizing, or expanding aging military treatment facilities and maintaining adequate health care services on military installations increases, the Department of Defense will be challenged to find new, more  
6           cost-effective ways of providing enhanced health care  
7           for military and civilian beneficiaries of the Department of Defense health care system.

8           (2) In view of these findings, the Secretary of Defense is directed to examine feasible and cost-effective  
9           methods for leveraging and expanding non-military health  
10          care resources to provide health care to military beneficiaries. Furthermore, the Secretary of Defense shall conduct a pilot program in accordance with this section.

11          (b) PILOT PROGRAM PURPOSES.—The Secretary of  
12          Defense shall conduct a pilot program at one or more military installations for purposes of testing—

13               (1) the feasibility and cost effectiveness of expanding use of non-military health care resources,  
14               particularly in cases in which such use would reduce

1 or eliminate the need for military medical construc-  
2 tion projects;

3 (2) initiatives that build cooperative health care  
4 arrangements and agreements between military in-  
5 stallations and local and regional non-military health  
6 care systems; and

7 (3) development of an integrated, long range  
8 business plan for the delivery of health care services  
9 for military beneficiaries, incorporating present and  
10 potential future capabilities in the non-military  
11 health care sector.

12 (c) REQUIREMENTS OF PILOT PROGRAM.—In con-  
13 ducting the pilot program, the Secretary of Defense  
14 shall—

15 (1) identify and analyze health care delivery op-  
16 tions that range from outsourcing all health care de-  
17 livery services to the private sector to providing some  
18 health care services in military facilities located on  
19 the installation;

20 (2) determine the cost avoidance or savings re-  
21 sulting from innovative partnerships between the  
22 Department of Defense and the private sector and  
23 limiting recapitalization costs in military facilities;

24 (3) study the potential, viability, cost efficiency,  
25 and health care effectiveness of Department of De-

1       fense health care providers delivering health care in  
2       civilian community hospitals;

3           (4) determine the opportunities for and barriers  
4       to coordinating and leveraging the use of existing  
5       health care resources, including Federal, State, local,  
6       and contractor assets; and

7           (5) develop recommendations for a model health  
8       care delivery system that may be used at other mili-  
9       tary installations.

10       (d) CONSULTATION REQUIREMENTS.—The Secretary  
11   of Defense shall develop the pilot program in consultation  
12   with the Secretaries of the military departments, rep-  
13   resentatives from the military installation selected for the  
14   pilot program, Federal, State, and local entities, and the  
15   TRICARE managed care support contractor with respon-  
16   sibility for that installation.

17       (e) SELECTION OF MILITARY INSTALLATION.—The  
18   pilot program shall be implemented at one or more mili-  
19   tary installations selected by the Secretary of Defense. At  
20   least one of the selected military installations shall meet  
21   the following criteria:

22           (1) The military installation is an Army instal-  
23       lation located in a rural area.

24           (2) The military installation has members of  
25       the Armed Forces on active duty and members of re-

1       serve components of the Armed Forces that use the  
2       installation as a training and operational base, with  
3       members routinely deploying in support of the global  
4       war on terrorism.

5           (3) The number of members of the Armed  
6       Forces on active duty permanently assigned to the  
7       military installation is expected to increase over the  
8       next five years.

9           (4) One or more partnerships exist at the mili-  
10      tary installation with civilian health care entities in  
11      the form of limited specialty care services in the  
12      military medical treatment facility on the installa-  
13      tion.

14          (5) There is a military treatment facility on the  
15      installation that does not have inpatient or trauma  
16      center care capabilities.

17          (6) There is a civilian community hospital with-  
18      in 15 miles of the military installation with limited  
19      capability to expand inpatient care beds, intensive  
20      care, and specialty services.

21          (7) There is no civilian hospital with a trauma  
22      center within 50 miles from the military installation.

23      (f) DURATION OF PILOT PROGRAM.—Implementation  
24      of the pilot program developed under this subsection shall



1 begin not later than May 1, 2005, and shall be conducted  
2 during fiscal years 2005, 2006, and 2007.

3 (g) FUNDS.—For fiscal year 2005, not more than  
4 \$5,000,000 of the amount appropriated pursuant to the  
5 authorization for operations and maintenance for the De-  
6 fense Health Program in section 303(a) may be used to  
7 conduct the pilot program under this section.

8 (h) REPORTS.—Not later than July 1, 2005, the Sec-  
9 retary of Defense shall submit an interim report to the  
10 Committees on Armed Services of the Senate and of the  
11 House of Representatives describing the details of the  
12 pilot program. Not later than July 1, 2007, the Secretary  
13 of Defense shall submit to such committees a final report  
14 describing the results of the pilot program with rec-  
15 ommendations for a model health care delivery system for  
16 other military installations.

17 **SEC. 722. STUDY OF PROVISION OF TRAVEL REIMBURSE-**  
18 **MENT TO HOSPITALS FOR CERTAIN MILI-**  
19 **TARY DISABILITY RETIREES.**

20 (a) STUDY.—The Secretary of Defense shall conduct  
21 a study of the feasibility, and of the desirability, of pro-  
22 viding that a member of the uniformed services retired  
23 under chapter 61 of title 10, United States Code, for a  
24 combat-related disability (as defined in section 1413a(e)  
25 of that title) shall be provided reimbursement for the trav-

1 el expenses of such member for travel, during the two-  
2 year period beginning on the date of the retirement of the  
3 member, to a military treatment facility for medical care.  
4 The Secretary shall include in that study consideration of  
5 whether reimbursement under such a plan should, as near-  
6 ly as practicable, be under the same terms and conditions,  
7 and at the same rate, as apply to beneficiary travel reim-  
8 bursement provided by the Secretary of Veterans Affairs  
9 under section 111 of title 38, United States Code.

10 (b) REPORT.—The Secretary of Defense shall submit  
11 to the congressional defense committees a report providing  
12 the results of the study under subsection (a). Such report  
13 shall be submitted not later than March 1, 2005.

14 **SEC. 723. STUDY OF MENTAL HEALTH SERVICES.**

15 (a) STUDY REQUIRED.—The Secretary of Defense  
16 shall conduct a study of mental health services available  
17 to members of the Armed Forces.

18 (b) PERSONS COVERED.—The study shall evaluate  
19 the availability and effectiveness of existing mental health  
20 treatment and screening resources—

21 (1) for members of the Armed Forces during a  
22 deployment to a combat theater;

23 (2) for members of the Armed Forces returning  
24 from a deployment to a combat theater, both—

1 (A) in the short-term, post-deployment pe-  
2 riod; and

3 (B) in the long-term, following the post-de-  
4 ployment period;

5 (3) for the families of members of the Armed  
6 Forces who have been deployed to a combat theater  
7 during the time of the deployment;

8 (4) for the families of members of the Armed  
9 Forces who have been deployed to a combat theater  
10 after the member has returned from the deployment;  
11 and

12 (5) for members of the Armed Forces and their  
13 families described in this subsection who are mem-  
14 bers of Reserve components.

15 (c) ASSESSMENT OF OBSTACLES.—The study shall  
16 provide an assessment of existing obstacles that prevent  
17 members of the Armed Forces and military families in  
18 need of mental health services from obtaining these serv-  
19 ices, including—

20 (1) the extent to which existing confidentiality  
21 regulations, or lack thereof, inhibit members of the  
22 Armed Forces from seeking mental health treat-  
23 ment;

24 (2) the implications that a decision to seek  
25 mental health services can have on a military career;

1           (3) the extent to which a social stigma exists  
2       within the Armed Forces that prevents members of  
3       the Armed Forces and military families from seeking  
4       mental health treatment within the Department of  
5       Defense and the individual Armed Forces;

6           (4) the extent to which logistical obstacles, par-  
7       ticularly with respect to members of the Armed  
8       Forces and families residing in rural areas, deter  
9       members in need of mental health services from ob-  
10      taining them; and

11          (5) the extent to which members of the Armed  
12      Forces and their families are prevented or hampered  
13      from obtaining mental health treatment due to the  
14      cost of such services.

15      (d) IDENTIFICATION OF PROBLEMS UNIQUE TO RE-  
16      SERVES.—The study shall identify potential problems in  
17      obtaining mental health treatment that are unique to  
18      members of Reserve components.

19      (e) REPORT.—The Secretary of Defense shall submit  
20      to Congress a report on the study conducted under this  
21      section not later than 90 days after the date of the enact-  
22      ment of this Act. The report shall contain the results of  
23      the study and make specific recommendations—

24          (1) for improving the effectiveness and accessi-  
25      bility of mental health services provided by Depart-

ment of Defense to the persons listed in subsection (b), including recommendations to ensure appropriate referrals and a seamless transition to the care of the Department of Veterans Affairs following separation from the Armed Forces;

(2) for removing or mitigating any obstacles identified under subsection (c); and

(3) for steps that can be taken by the Department of Defense or Congress to bring parity to mental health services available to members of Reserve components and members of the Armed Forces on active duty.

## **TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**

### **Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations**

#### **SEC. 801. RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.**

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

1   **“§ 2410p. Rapid acquisition authority to respond to**  
2                   **combat emergencies**

3           “(a) RAPID ACQUISITION AUTHORITY.—The Sec-  
4   retary of Defense may rapidly acquire, in accordance with  
5   this section, equipment needed by a combatant com-  
6   mander to eliminate a combat capability deficiency that  
7   has resulted in combat fatalities.

8           “(b) PROCESS FOR RAPID ACQUISITION.—Not later  
9   than 30 days after the date of the enactment of this sec-  
10   tion, the Secretary of Defense shall develop a process for  
11   the rapid acquisition authority provided by subsection (a)  
12   and submit to Congress a detailed explanation of the proc-  
13   ess, including procedures to be followed in carrying out  
14   the process. The process shall provide for the following:

15           “(1) A requirement that the process may be  
16       used only to acquire the minimum amount of equip-  
17       ment needed until the needs of the combatant com-  
18       mander can be fulfilled under existing acquisition  
19       statutes, policies, directives, and regulations.

20           “(2) A goal of awarding a contract for the  
21       equipment within 15 days after receipt of a request  
22       from a commander.

23           “(3) In a case in which the equipment cannot  
24       be acquired without an extensive delay, a require-  
25       ment for an interim solution to minimize the combat

1       capability deficiency and combat fatalities until the  
2       equipment can be acquired.

3               “(4) Waiver of the applicability of all policies,  
4       directives, and regulations related to—

5                       “(A) the establishment of the requirement  
6       for the equipment;

7                       “(B) the research, development, test, and  
8       evaluation of the equipment; and

9                       “(C) the solicitation and selection of  
10       sources, and the award of the contract, for pro-  
11       curement of the equipment.

12               “(5) Such other procedures or requirements as  
13       the Secretary considers appropriate.

14       “(c) WAIVER OF CERTAIN STATUTES.—For purposes  
15       of exercising the authority provided by subsection (a) with  
16       respect to equipment, laws relating to the following shall  
17       not apply:

18                       “(A) The establishment of the requirement for  
19       the equipment.

20                       “(B) The research, development, test, and eval-  
21       uation of the equipment.

22                       “(C) The solicitation and selection of sources,  
23       and the award of the contract, for procurement of  
24       the equipment.

1       “(d) LIMITATIONS.—The rapid acquisition authority  
2 provided by subsection (a) may be used only—

3               “(1) after the Secretary of Defense, without  
4 delegation, determines in writing that there exists a  
5 combat capability deficiency that has resulted in  
6 combat fatalities; and

7               “(2) to acquire equipment in an amount aggregating not more than \$100,000,000 during a fiscal  
8 year.  
9

10       “(e) SOURCE OF FUNDS.—For acquisitions under  
11 this section to be made during any fiscal year, the Secretary may use any funds made available to the Department of Defense for that fiscal year.  
12  
13

14       “(f) NOTIFICATION TO CONGRESS AFTER EACH USE  
15 OF AUTHORITY.—The Secretary of Defense shall notify  
16 the congressional defense committees within 15 days after  
17 each use of the authority provided by subsection (a). Each  
18 such notice shall identify the equipment to be acquired,  
19 the amount to be expended for such acquisition, and the  
20 source of funds for such acquisition.

21       “(g) COMBATANT COMMANDER.—In this section, the  
22 term ‘combatant commander’ means the commander of a  
23 unified combatant command with authority for the conduct of operations in a specific area of responsibility or  
24



1 who otherwise has authority to conduct operations at the  
2 direction of the President or Secretary of Defense.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of such chapter is amended by adding  
5 at the end the following new item:

“2410p. Rapid acquisition authority to respond to combat emergencies.”.

6 **SEC. 802. DEFENSE ACQUISITION WORKFORCE CHANGES.**

7 (a) SELECTION CRITERIA AND PROCEDURES.—Sec-  
8 tion 1732(b)(1)(A) of title 10, United States Code, is  
9 amended by striking “within grade GS–13 or above of the  
10 General Schedule” and inserting “in any position des-  
11 ignated by the Secretary of Defense”.

12 (b) CRITICAL ACQUISITION POSITIONS.—Section  
13 1733 of such title is amended by striking subsection (b)  
14 and inserting the following:

15 “(b) DESIGNATION OF CRITICAL ACQUISITION.—(1)  
16 The Secretary of Defense shall designate the acquisition  
17 positions in the Department of Defense that are critical  
18 acquisition positions. Such positions shall include the fol-  
19 lowing:

20 “(A) Program executive officer.

21 “(B) Program manager of a major defense ac-  
22 quisition program (as defined in section 2430 of this  
23 title) or of a significant nonmajor defense acquisition  
24 program (as defined in section 1737(a)(3) of this  
25 title).

1           “(C) Deputy program manager of a major de-  
2       fense acquisition program.

3           “(D) Any other acquisition position of signifi-  
4       cant responsibility determined by the Secretary to be  
5       critical.

6       “(2) The Secretary shall annually publish a list of  
7       the positions designated under this subsection.”.

8       (c) SCHOLARSHIP PROGRAMS.—Section 1742 of such  
9       title is amended—

10           (1) by inserting “(a) PROGRAMS.—” at the be-  
11       ginning of the text; and

12           (2) by adding at the end the following new sub-  
13       section:

14       “(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—  
15       With respect to any scholarship program conducted under  
16       this section, the Secretary of Defense and the participant  
17       shall agree in writing to the terms of the scholarship. The  
18       agreement shall include the obligations of the Secretary  
19       and the participant, as well as actions available for either  
20       party to take if there is a failure to meet the obligations  
21       under the agreement.”.

22       **SEC. 803. LIMITATION ON TASK AND DELIVERY ORDER**  
23       **CONTRACTS.**

24       Subsection 2304a(f) of title 10, United States Code,  
25       is amended to read as follows:

1       “(f) CONTRACT PERIOD.—The head of an agency en-  
2       tering into a task or delivery order contract under this  
3       section may provide for the contract to cover any base pe-  
4       riod up to five years and may extend the contract period  
5       for one or more successive periods pursuant to an option  
6       provided in the contract or a modification to the con-  
7       tract.”.

8       **SEC. 804. FUNDING FOR CONTRACT CEILINGS FOR CER-**  
9                   **TAIN   MULTIYEAR   PROCUREMENT   CON-**  
10                  **TRACTS.**

11       (a) MULTIYEAR CONTRACTS RELATING TO PROP-  
12       PERTY.—Section 2306b(g) of title 10, United States Code,  
13       is amended—

14               (1) by inserting “(1)” before “Before any”;

15               (2) by striking “Committee” through “House of  
16       Representatives” and inserting “congressional de-  
17       fense committees”; and

18               (3) by adding at the end the following new  
19       paragraph:

20       “(2) In the case of a contract described in subsection  
21       (a) with a cancellation ceiling described in paragraph (1),  
22       if the budget for the contract does not include proposed  
23       funding for the costs of contract cancellation up to the  
24       cancellation ceiling established in the contract, the head  
25       of the agency concerned shall, as part of the certification

1 required by subsection (i)(1)(A), give written notification  
2 to the congressional defense committees of—

3 “(A) the cancellation ceiling amounts planned  
4 for each program year in the proposed multiyear  
5 procurement contract, together with the reasons for  
6 the amounts planned;

7 “(B) the extent to which costs of contract can-  
8 cellation are not included in the budget for the con-  
9 tract; and

10 “(C) a financial risk assessment of not includ-  
11 ing budgeting for costs of contract cancellation, in-  
12 cluding proposed funding sources to meet such can-  
13 cellation costs if the contract is canceled.”.

14 (b) MULTIYEAR CONTRACTS RELATING TO SERV-  
15 ICES.—Section 2306c(d) of title 10, United States Code,  
16 is amended—

17 (1) in paragraphs (1), (3), and (4), by striking  
18 “committees of Congress named in paragraph (5)”  
19 and inserting “congressional defense committees”  
20 each place it appears; and

21 (2) by amending paragraph (5) to read as fol-  
22 lows:

23 “(5) In the case of a contract described in subsection  
24 (a) with a cancellation ceiling described in paragraph (4),  
25 if the budget for the contract does not include proposed

1 funding for the costs of contract cancellation up to the  
2 cancellation ceiling established in the contract, the head  
3 of the agency concerned shall give written notification to  
4 the congressional defense committees of—

5           “(A) the cancellation ceiling amounts planned  
6       for each program year in the proposed multiyear  
7       procurement contract, together with the reasons for  
8       the amounts planned;

9           “(B) the extent to which costs of contract can-  
10      cellation are not included in the budget for the con-  
11      tract; and

12          “(C) a financial risk assessment of not includ-  
13      ing budgeting for costs of contract cancellation, in-  
14      cluding proposed funding sources to meet such can-  
15      cellation costs if the contract is canceled.”

16 **SEC. 805. INCREASED THRESHOLD FOR REQUIRING CON-**  
17 **TRACTORS TO PROVIDE SPECIFIED EM-**  
18 **PLOYEE INFORMATION TO COOPERATIVE**  
19 **AGREEMENT HOLDERS.**

20       Section 2416(d) of title 10, United States Code, is  
21 amended by striking “\$500,000” and inserting  
22 “\$1,000,000”.

1 **SEC. 806. EXTENSION OF AUTHORITY FOR USE OF SIM-**  
2 **PLIFIED ACQUISITION PROCEDURES.**

3 Section 4202(e) of the Clinger-Cohen Act (division D  
4 of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304  
5 note) is amended by striking “January 1, 2006” and in-  
6 serting “October 1, 2009”.

7 **SEC. 807. AUTHORITY TO ADJUST ACQUISITION-RELATED**  
8 **DOLLAR THRESHOLDS FOR INFLATION.**

9 (a) INFLATION ADJUSTMENT AUTHORITY.—The  
10 FAR Council and the heads of executive agencies may ad-  
11 just the dollar thresholds in procurement laws in order to  
12 maintain the constant dollar value of the threshold, taking  
13 into account the effect of inflation on the threshold.

14 (b) LIMITATION ON EXERCISE OF AUTHORITY.—Ad-  
15 justments of dollar thresholds under subsection (a) may  
16 be carried out—

17 (1) by the FAR Council only with respect to  
18 procurement laws that apply to executive agencies  
19 generally; and

20 (2) by the head of an executive agency only  
21 with respect to procurement laws that apply to that  
22 agency exclusively.

23 (c) ADDITIONAL REQUIREMENTS.—In adjusting a  
24 threshold under subsection (a), the FAR Council and the  
25 head of an agency shall—

1           (2) consult with the Director of the Office of  
2           Management and Budget;

3           (3) round the threshold, to facilitate implemen-  
4           tation; and

5           (4) publish the adjusted threshold in the Fed-  
6           eral Register.

7           (d) EXCLUSIONS.—This section does not apply to—

8           (1) dollar thresholds in sections 3141 through  
9           3144, 3146, and 3147 of title 40, United States  
10          Code;

11          (2) dollar thresholds in the Service Contract  
12          Act of 1965 (41 U.S.C. 351, et seq.); or

13          (3) dollar thresholds established by the United  
14          States Trade Representative pursuant to title III of  
15          the Trade Agreements Act of 1979 (19 U.S.C. 2511  
16          et seq.).

17          (e) DEFINITIONS.—In this section:

18           (1) The term “procurement law” means any  
19           provision of law that sets forth policies, procedures,  
20           requirements, or restrictions for the procurement of  
21           property or services by the Federal Government.

22           (2) The terms “executive agency” and “pro-  
23           curement” have the meanings provided by section  
24           4(1) of the Office of Federal Procurement Policy  
25           Act (41 U.S.C. 403(1))

1           (3) The term “FAR Council” means the Fed-  
2       eral Acquisition Regulatory Council established  
3       under section 25 of the Office of Federal Procure-  
4       ment Policy Act (41 U.S.C. 421)).

5       **Subtitle B—United States Defense**  
6       **Industrial Base Provisions**

7       **SEC. 811. DEFENSE TRADE RECIPROCITY.**

8       (a) IN GENERAL.—Chapter 148 of title 10, United  
9       States Code, is amended by inserting after section 2532  
10      the following new section:

11     **“§ 2532a. Defense trade reciprocity**

12       “(a) POLICY.—(1) It is the policy of Congress that  
13      procurement regulations used in the conduct of trade in  
14      defense articles and defense services shall be based on the  
15      principle of fair trade and reciprocity consistent with  
16      United States national security, including the need to en-  
17      sure comprehensive manufacturing capability in the  
18      United States defense industrial base for military system  
19      essential items.

20       “(2) The Secretary of Defense shall make every effort  
21      to ensure that the policies and practices of the Depart-  
22      ment of Defense reflect the goal of establishing an equi-  
23      table trading relationship between the United States and  
24      its foreign defense trade partners, including ensuring that  
25      United States firms and United States employment in the



1 defense sector are not disadvantaged by unilateral pro-  
2 curement practices by foreign governments, such as the  
3 imposition of offset agreements or similar requirements in  
4 defense procurements by those governments. In pursuing  
5 this goal, the Secretary shall—

6           “(A) develop a comprehensive defense acquisi-  
7           tion trade policy that provides the necessary guid-  
8           ance and incentives for the elimination of offset  
9           agreements as an accepted practice in defense trade;  
10          and

11          “(B) review and make necessary modifications  
12          to existing acquisition policies and strategies, and re-  
13          view and seek to make necessary modifications to ex-  
14          isting memoranda of understanding, cooperative  
15          project agreements, or related agreements with for-  
16          eign defense trade partners, to reflect this goal.

17          “(b) REQUIREMENT.—The Secretary of Defense may  
18 not enter into a contract, or approve or permit any sub-  
19 contract under a contract entered into by the Department  
20 of Defense, for the procurement of any defense article or  
21 defense service from a foreign firm unless the country in  
22 which the foreign firm performs substantially all of its  
23 manufacturing, production, and research and development  
24 activities in the performance of the contract (or sub-  
25 contract) agrees to apply offset agreements to the procure-

1 ment of defense articles and defense services from the  
2 United States firms in the same manner and to the same  
3 degree as such agreements are applied by the Department  
4 of Defense to the procurement of defense articles and de-  
5 fense services from that country.

6 “(c) EXCEPTION.—Subsection (b) does not apply to  
7 a contract or subcontract for the procurement of a defense  
8 article or defense service from a foreign firm if the Sec-  
9 retary of Defense determines in writing, with respect to  
10 the specific contract or subcontract, that an exception to  
11 subsection (b) is necessary for the Department to be able  
12 to meet national security objectives.

13 “(d) NOTIFICATION REQUIRED WHEN EXCEPTION  
14 APPLIED.—The Secretary of Defense may not apply an  
15 exception under subsection (c) until—

16 “(1) a notification of the intent to apply such  
17 exception is submitted to the congressional defense  
18 committees and published in the Federal Register;  
19 and

20 “(2) a period of 30 days has expired after the  
21 date on which such notification is so submitted and  
22 published.

23 “(e) AUTHORITY TO APPLY EXCEPTION NOT DELE-  
24 GABLE.—The authority of the Secretary to apply the ex-  
25 ception under subsection (c) may not be delegated to any

1 officer or employee in a position at a level lower than the  
2 position of the Under Secretary of Defense for Acquisi-  
3 tion, Technology, and Logistics.—

4 “(f) REGULATIONS.—The Secretary shall prescribe  
5 regulations to implement this section in the Department  
6 of Defense supplement to the Federal Acquisition Regula-  
7 tion.

8 “(g) EFFECTIVE DATE.—This section and the regu-  
9 lations prescribed under this section shall apply to con-  
10 tracts and subcontracts entered into on and after the date  
11 occurring one year after the date of the enactment of this  
12 Act.

13 “(h) DEFINITIONS.—In this section:

14 “(1) The term ‘foreign firm’ means a business  
15 entity that performs substantially all of its manufac-  
16 turing, production, and research and development  
17 activities outside of the United States.

18 “(2) The term ‘United States firm’ means a  
19 business entity that performs substantially all of its  
20 manufacturing, production, and research and devel-  
21 opment activities in the United States.

22 “(3) The term ‘foreign defense trade partner’  
23 means a foreign country with respect to which there  
24 is—

1           “(A) a memorandum of understanding or  
2           related agreement described in section 2531(a)  
3           of title 10, United States Code; or

4           “(B) a cooperative project agreement de-  
5           scribed in section 27 of the Arms Export Con-  
6           trol Act (22 U.S.C. 2767).

7           “(4) The term ‘offset agreement’ has the mean-  
8           ing provided that term by section 36(e) of the Arms  
9           Export Control Act (22 U.S.C. 2776(e)).

10          “(5) The terms ‘defense article’ and ‘defense  
11          service’ have the meanings provided those terms by  
12          section 47(7) of the Arms Export Control Act (22  
13          U.S.C. 2794(7)).

14          “(6) The term ‘military system essential item’  
15          means an item on the military system essential item  
16          breakout list produced pursuant to section 813(b) of  
17          the National Defense Authorization Act for Fiscal  
18          Year 2004 (P.L. 108–136; 117 Stat. 1544).”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          at the beginning of such chapter is amended by adding  
21          at the end the following new item:

“2532a. Defense trade reciprocity.”.

1 **SEC. 812. AMENDMENTS TO DOMESTIC SOURCE REQUIRE-**  
2 **MENTS.**

3 (a) NOTICE.—Section 2533a of title 10, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new subsection:

6 “(k) NOTIFICATION REQUIRED WHEN CERTAIN EX-  
7 CEPTIONS APPLIED.—(1) Funds appropriated or other-  
8 wise available to the Department of Defense may not be  
9 used to enter into a contract to procure an item described  
10 in subsection (b) pursuant to an exception set forth in sub-  
11 section (c) or (e) until—

12 “(A) a notification of the intent to apply such  
13 exception is submitted to Congress and posted on  
14 the website maintained by the General Services Ad-  
15 ministration known as FedBizOpps.gov (or any suc-  
16 cessor site); and

17 “(B) a period of 15 days has expired after the  
18 date on which such notification is so submitted and  
19 published.

20 “(2) In any case in which the Secretary of Defense  
21 or the Secretary of the military department concerned in-  
22 tends to apply or applies the exception set forth in sub-  
23 section (d)(1), the Secretary concerned shall submit to  
24 Congress a notification of such intent or such application  
25 during the period beginning six months before the date

1 of application of such exception and ending six months  
2 after the date of application of such exception.”.

3 (b) CLOTHING MATERIALS AND COMPONENTS COV-  
4 ERED.—Subsection (b) of section 2533a of title 10, United  
5 States Code, is amended in paragraph (1)(B) by inserting  
6 before the semicolon the following: “and the materials and  
7 components thereof, other than sensors, electronics, or  
8 other items added to, and not normally associated with,  
9 clothing (and the materials and components thereof)”.

10 **SEC. 813. THREE-YEAR EXTENSION OF RESTRICTION ON AC-**  
11 **QUISITION OF POLYACRYLONITRILE (PAN)**  
12 **CARBON FIBER FROM FOREIGN SOURCES.**

13 The Secretary of Defense shall delay by three years  
14 the phase-out of the restriction on acquisition of  
15 polyacrylonitrile (PAN) carbon fiber from foreign sources  
16 (described in subpart 225.7103 of the Department of De-  
17 fense supplement to the Federal Acquisition Regulation).  
18 In implementing such delay, the Secretary shall revise the  
19 applicable regulations to ensure that such restriction ap-  
20 plies to—

21 (1) solicitations and contracts issued on or be-  
22 fore May 31, 2006, for major systems that are not  
23 yet in production; and

24 (2) solicitations and contracts issued during the  
25 period beginning June 1, 2006, and ending May 31,

1       2008, for major systems that are not yet in engi-  
2       neering and manufacturing development.

3   **SEC. 814. GRANT PROGRAM FOR DEFENSE CONTRACTORS**  
4                   **TO IMPLEMENT STRATEGIES TO AVOID**  
5                   **OUTSOURCING OF JOBS.**

6       (a) GRANT PROGRAM AUTHORIZED.—The Secretary  
7   of Defense may make grants under this section for fiscal  
8   year 2005 to qualified defense contractor groups for the  
9   purposes described in subsection (b).

10      (b) GRANT PURPOSES.—A grant may be made under  
11   this section for the purpose of implementing a strategy  
12   to avoid the outsourcing of jobs by a defense contractor,  
13   including the following strategies:

- 14           (1) Cost-cutting measures.  
15           (2) Retraining programs.  
16           (3) Technology development.  
17           (4) Plant upgrades.

18      (c) APPLICATION.—A grant may not be awarded  
19   under this section unless an application is submitted to,  
20   and approved by, the Secretary. Such an application—

- 21           (1) shall be submitted by a qualified defense  
22   contractor group in such form and manner as the  
23   Secretary may require; and  
24           (2) shall contain—

1 (A) a description of the strategy proposed  
2 for avoiding the outsourcing of at least 10 jobs  
3 in the performance of a defense contract by the  
4 defense contractor concerned; and

5 (B) such other information as the Sec-  
6 retary may require.

7 (d) DEFINITIONS.—In this section:

8 (1) The term “qualified defense contractor  
9 group”, with respect to a defense contractor, is a  
10 group or person representing—

11 (A) management of the contractor;

12 (B) a labor organization that represents  
13 employees of the contractor; or

14 (C) employees of the contractor.

15 (2) The term “outsourcing”, with respect to a  
16 defense contract, includes the performance outside  
17 the United States of work under the contract.

18 (e) FEDERAL SHARE.—The Federal share of the  
19 costs of the strategy carried out with a grant under this  
20 section may not exceed 50 percent.

21 (f) USE OF DEFENSE INDUSTRIAL CAPABILITIES  
22 FUND FOR GRANTS.—(1) Notwithstanding section 814(c)  
23 of the National Defense Authorization Act for Fiscal Year  
24 2004 (P.L. 108–136; 117 Stat. 1545), amounts in the De-



1 fense Industrial Base Capabilities Fund may be used for  
2 grants under this section.

3 (2) For fiscal year 2005, up to \$50,000,000 of  
4 amounts available in such Fund may be used to carry out  
5 this section.

6 (g) AUTHORIZATION OF FUNDS.—There are author-  
7 ized to be appropriated to the Defense Industrial Base Ca-  
8 pabilities Fund \$50,000,000 for purposes of providing  
9 grants under this section.

10 **SEC. 815. PREFERENCE FOR DOMESTIC FREIGHT FOR-**  
11 **WARDING SERVICES.**

12 (a) PREFERENCE.—In the procurement of transpor-  
13 tation services described in subsection (b), the Secretary  
14 of Defense shall give preference to any freight forwarder  
15 that—

16 (1) certifies to the Department of Defense that  
17 it is owned and controlled by citizens of the United  
18 States; and

19 (2) offers services at fair and reasonable rates.

20 (b) SERVICES COVERED.—Subsection (a) applies to  
21 transportation services to, from, or within Iraq or Afghan-  
22 istan, and warehousing, logistics, or other similar services  
23 performed within Iraq or Afghanistan.

**Subtitle C—Other Acquisition  
Matters**

**SEC. 821. SUSTAINMENT AND MODERNIZATION PLANS FOR  
EXISTING SYSTEMS WHILE REPLACEMENT  
SYSTEMS ARE UNDER DEVELOPMENT.**

(a) EXISTING SYSTEMS TO BE MAINTAINED WHILE  
REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.—

(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2436 the following new section:

**“§ 2437. Development of major defense acquisition  
programs: sustainment and moderniza-  
tion of system to be replaced**

“(a) REQUIREMENT FOR SUSTAINING AND MODERNIZING EXISTING FORCES.—(1) The Secretary of Defense shall require that, whenever a new major defense acquisition program begins development, the defense acquisition authority responsible for that program shall develop a plan (to be known as a sustainment and modernization plan) for the existing system that the system under development is intended to replace. Any such sustainment and modernization plan shall provide for budgeting, sustaining, and modernizing the existing system until the replacement system to be developed under the major defense acquisition program is fielded and assumes the majority responsi-

1 bility for the mission of the existing system. This section  
2 does not apply to a major defense acquisition that reaches  
3 initial operational capability before October 1, 2008.

4 “(2) In this section, the term “defense acquisition au-  
5 thority” means the Secretary of a military department or  
6 the commander of the United States Special Operations  
7 Command.

8 “(b) SUSTAINMENT AND MODERNIZATION PLAN.—  
9 The Secretary of Defense shall require that each  
10 sustainment and modernization plan under this section in-  
11 clude, at a minimum, the following:

12 “(1) The milestone schedule for the develop-  
13 ment of the major defense acquisition program, in-  
14 cluding low-rate initial production, initial operational  
15 capability, full-rate production, full operational capa-  
16 bility, and the date when the replacement system as-  
17 sumes the majority responsibility for the mission of  
18 the existing system.

19 “(2) An analysis of the existing system to de-  
20 termine the following:

21 “(A) A sustainment plan and budget re-  
22 quirements necessary to provide service life ex-  
23 tension to the existing system at acceptable reli-  
24 ability and availability rates.

1           “(B) A modernization plan and budget re-  
2           quirements necessary to maintain mission capa-  
3           bility against the relevant threats.

4           “(C) A modernization plan and budget re-  
5           quirements necessary—

6                   “(i) to transfer mature technologies  
7                   from the new system or other systems so  
8                   that the mission capability of the existing  
9                   system is enhanced against relevant  
10                  threats; and

11                   “(ii) to provide interoperability with  
12                   the new system during the period from ini-  
13                   tial fielding until the new system assumes  
14                   the majority of responsibility for the mis-  
15                   sion of the existing system.

16           “(c) ANNUAL REVIEW.—Each fiscal year, before the  
17           submission to Congress of the President’s budget for the  
18           next fiscal year, the Secretary of Defense shall review the  
19           schedule performance of each replacement major defense  
20           acquisition program for which a sustainment and mod-  
21           ernization plan has been developed under this section to  
22           compare that performance with the schedule set forth  
23           under subsection (b)(1). If the schedule for the program  
24           has changed, then the Secretary shall notify the congres-  
25           sional defense committees of such change.

1       “(d) EXCEPTIONS.—Subsection (a) shall not apply to  
2 a major defense acquisition program if the Secretary of  
3 Defense determines that—

4               “(1) the existing system is no longer relevant to  
5 the mission;

6               “(2) the mission has been eliminated;

7               “(3) the mission has been consolidated with an-  
8 other mission in such a manner that another exist-  
9 ing system can adequately meet the mission require-  
10 ments; or

11              “(4) the duration of time until the new system  
12 assumes the majority of responsibility for the exist-  
13 ing system’s mission is sufficiently short so that mis-  
14 sion availability, capability, interoperability, and  
15 force protection requirements are maintained.

16       “(e) WAIVER.—The Secretary of Defense may waive  
17 the applicability of subsection (a) to a major defense ac-  
18 quisition program if the Secretary determines that, but for  
19 such a waiver, the Department would be unable to meet  
20 national security objectives. Whenever the Secretary  
21 makes such a determination and authorizes such a waiver,  
22 the Secretary shall submit notice of such waiver and of  
23 the Secretary’s determination and the reasons therefor in  
24 writing to the congressional defense committees.”.

1       (2) The table of sections at the beginning of such  
 2 chapter is amended by inserting after the item relating  
 3 to section 2436 the following new item:

“2437. Development of major defense acquisition programs: sustainment and  
 modernization of system to be replaced.”.

4       (b) APPLICATION TO EXISTING PROGRAMS IN DE-  
 5 VELOPMENT.—Section 2437 of title 10, United States  
 6 Code, as added by subsection (a), shall apply with respect  
 7 to a major defense acquisition program that is under de-  
 8 velopment as of the date of the enactment of this Act and  
 9 is not expected to reach initial operational capability be-  
 10 fore October 1, 2008. The Secretary of Defense shall re-  
 11 quire that a sustainment and modernization plan under  
 12 that section be developed not later than one year after the  
 13 date of the enactment of this Act for the existing system  
 14 that the system under development is intended to replace.

15 **SEC. 822. REVIEW AND DEMONSTRATION PROJECT RELAT-**  
 16 **ING TO CONTRACTOR EMPLOYEES.**

17       (a) GENERAL REVIEW.—(1) The Secretary of De-  
 18 fense shall conduct a review of policies, procedures, prac-  
 19 tices, and penalties of the Department of Defense relating  
 20 to employees of defense contractors for purposes of ensur-  
 21 ing that the Department of Defense is in compliance with  
 22 Executive Order No. 12989 (relating to a prohibition on  
 23 entering into contracts with contractors that are not in  
 24 compliance with the Immigration and Nationality Act).

1       (2) In conducting the review, the Secretary shall—

2           (A) identify potential weaknesses and areas for  
3       improvement in existing policies, procedures, prac-  
4       tices, and penalties;

5           (B) develop and implement reforms to strength-  
6       en, upgrade, and improve policies, procedures, prac-  
7       tices, and penalties of the Department of Defense  
8       and its contractors; and

9           (C) review and analyze reforms developed pur-  
10      suant to this paragraph to identify for purposes of  
11      national implementation those which are most effi-  
12      cient and effective.

13       (3) The review under this subsection shall be com-  
14      pleted not later than 180 days after the date of the enact-  
15      ment of this Act.

16       (b) DEMONSTRATION PROJECT.—The Secretary of  
17      Defense shall conduct a demonstration project in accord-  
18      ance with this section, in one or more regions selected by  
19      the Secretary, for purposes of promoting greater con-  
20      tracting opportunities for contractors offering effective,  
21      reliable staffing plans to perform defense contracts that  
22      ensure all contract personnel employed for such projects,  
23      including management employees, professional employees,  
24      craft labor personnel, and administrative personnel, are  
25      lawful residents or persons properly authorized to be em-

1   ployed in the United States and properly qualified to per-  
2   form services required under the contract. The demonstra-  
3   tion project shall focus on contracts for construction, ren-  
4   ovation, maintenance, and repair services for military in-  
5   stallations.

6       (c) DEMONSTRATION PROJECT PROCUREMENT PRO-  
7   CEDURES.—As part of the demonstration project under  
8   subsection (b), the Secretary of Defense shall conduct a  
9   competition in which there is a provision in contract solici-  
10   tations and request for proposal documents to require sig-  
11   nificant weight or credit be allocated to—

12           (1) reliable, effective workforce programs of-  
13   fered by prospective contractors that provide  
14   background checks and other measures to ensure the  
15   contractor is in compliance with the Immigration  
16   and Nationality Act; and

17           (2) reliable, effective project staffing plans of-  
18   fered by prospective contractors that specify for all  
19   contract employees (including management employ-  
20   ees, professionals, and craft labor personnel) the  
21   skills, training, and qualifications of such persons  
22   and the labor supply sources and hiring plans or  
23   procedures used for employing such persons.

24       (d) IMPLEMENTATION OF DEMONSTRATION  
25   PROJECT.—The Secretary of Defense shall begin oper-



1 ation of the demonstration project required under this sec-  
2 tion after completion of the review under subsection (a),  
3 but in no event later than 270 days after the date of the  
4 enactment of this Act.

5 (e) REPORT ON DEMONSTRATION PROJECT.—Not  
6 later than six months after award of a contract under the  
7 demonstration project, the Secretary of Defense shall sub-  
8 mit to the Committees on Armed Services of the Senate  
9 and House of Representatives a report setting forth a re-  
10 view of the demonstration project and recommendations  
11 on the actions, if any, that can be implemented to ensure  
12 compliance by the Department of Defense with Executive  
13 Order No. 12989.

14 (f) DEFINITION.—In this section, the term “military  
15 installation” means a base, camp, post, station, yard, cen-  
16 ter, homeport facility for any ship, or other activity under  
17 the jurisdiction of the Department of Defense, including  
18 any leased facility, which is located within any of the sev-  
19 eral States, the District of Columbia, the Commonwealth  
20 of Puerto Rico, American Samoa, the Virgin Islands, or  
21 Guam. Such term does not include any facility used pri-  
22 marily for civil works, rivers and harbors projects, or flood  
23 control projects.

1 **SEC. 823. DEFENSE ACQUISITION WORKFORCE LIMITATION**  
2 **AND REPORTS.**

3 (a) DEFENSE ACQUISITION AND SUPPORT PER-  
4 SONNEL LIMITATION.—(1) Effective October 1, 2005, the  
5 number of defense acquisition and support personnel in  
6 the Department of Defense may not exceed 95 percent of  
7 the baseline number.

8 (2) For purposes of paragraph (1), the baseline num-  
9 ber is the number of defense acquisition and support per-  
10 sonnel as of October 1, 2004.

11 (3) All determinations of personnel strengths for pur-  
12 poses of this section shall be on the basis of full-time  
13 equivalent positions.

14 (b) GAO STUDY AND REPORT ON DEFENSE ACQUI-  
15 SITION AND SUPPORT PERSONNEL.—(1) The Comptroller  
16 General shall conduct a study of Department of Defense  
17 management of defense acquisition and support personnel.  
18 The study shall include—

19 (A) an analysis of the number and structure of  
20 defense acquisition and support personnel; and

21 (B) an assessment of the size, mission, com-  
22 position, and projected workload requirements of de-  
23 fense acquisition and support personnel.

24 (2) The Comptroller General shall submit to the  
25 Committees on Armed Services of the Senate and the  
26 House of Representatives a report on the results of the

1 study conducted under this subsection not later than  
2 March 1, 2005.

3 (c) DEFENSE ACQUISITION UNIVERSITY STUDY AND  
4 REPORT ON DEFENSE ACQUISITION AND SUPPORT PER-  
5 SONNEL.—(1) The Defense Acquisition University shall  
6 conduct a study of all the training programs offered to  
7 defense acquisition and support personnel.

8 (2) The Defense Acquisition University shall submit  
9 to the Committees on Armed Services of the Senate and  
10 the House of Representatives a report on the results of  
11 the study conducted under this subsection not later than  
12 March 1, 2005. The report shall include—

13 (A) the number of individuals currently cer-  
14 tified within the field they are working in; and

15 (B) recommendations on how to improve edu-  
16 cation and productivity for defense acquisition and  
17 support personnel, including recommendations for  
18 additional training program requirements.

19 (d) DEFINITION.—In this section, the term “defense  
20 acquisition and support personnel” means members of the  
21 Armed Forces and civilian personnel (other than civilian  
22 personnel who are employed at a maintenance depot) who  
23 are assigned to, or employed in, acquisition organizations  
24 of the Department of Defense (as specified in Department  
25 of Defense Instruction numbered 5000.58, dated January

1 14, 1992), and any other organization that, as determined  
2 by the Secretary, has acquisition as its predominant mis-  
3 sion.

4 **SEC. 824. PROVISION OF INFORMATION TO CONGRESS TO**  
5 **ENHANCE TRANSPARENCY IN CONTRACTING.**

6       Upon request of the chairman or ranking member of  
7 the Committee on Armed Services of the Senate or House  
8 of Representatives, the Secretary of Defense shall provide,  
9 with respect to any contract or task or delivery order  
10 under a task or delivery order contract entered into by  
11 the Department of Defense, within 14 days after receipt  
12 of the request, unredacted copies of any documents re-  
13 quired to be maintained in the contracting office contract  
14 file, the contract administration office contract file, and  
15 the paying office contract file pursuant to subpart 4.8 of  
16 the Federal Acquisition Regulation, including—

- 17           (1) copies of the contract and all modifications;
- 18           (2) orders issued under the contract;
- 19           (3) justifications and approvals;
- 20           (4) any government estimate of contract price;
- 21           (5) source selection documentation;
- 22           (6) cost or price analysis;
- 23           (7) audit reports;
- 24           (8) justification for type of contract;

1           (9) authority for deviations from regulations,  
2           statutory requirements, or other restrictions;

3           (10) bills, invoices, vouchers, and supporting  
4           documents; and

5           (11) records of payments or receipts.

6 **SEC. 825. REQUIREMENT TO TREAT SURETIES IN SAME**  
7 **MANNER AS FINANCING INSTITUTIONS WHEN**  
8 **CONTRACTORS DEFAULT.**

9           (a) AMENDMENT TO TITLE 31.—Section 3727(c) of  
10 title 31, United States Code, is amended by inserting  
11 “surety on a bond provided in connection with a contract  
12 or other” before “financing institution”.

13           (b) AMENDMENT TO REVISED STATUTES.—Section  
14 3737(b) of the Revised Statutes (41 U.S.C. 15) is amend-  
15 ed in the first sentence by inserting “surety on a bond  
16 provided in connection with a contract,” before “or other  
17 financing institution”.

18 **SEC. 826. PROVISIONS RELATING TO CREATION OF JOBS IN**  
19 **THE UNITED STATES BY DEFENSE CONTRAC-**  
20 **TORS.**

21           (a) AUTHORITY TO EXCLUDE CERTAIN SOURCES ON  
22 BASIS OF CREATION OF JOBS IN UNITED STATES.—Sec-  
23 tion 2304(b)(1) of title 10, United States Code, is  
24 amended—

1           (1) by striking “or” at the end of subparagraph  
2       (E);

3           (2) by striking the period at the end of sub-  
4       paragraph (F) and inserting “; or”; and

5           (3) by adding at the end the following new sub-  
6       paragraph:

7           “(G) would create jobs in the United States.”.

8       (b) REQUIREMENT TO INCLUDE CREATION OF JOBS  
9       IN UNITED STATES AS EVALATION FACTOR.—(1) Section  
10      2305(a)(3)(A) of title 10, United States Code, is  
11      amended—

12           (A) by striking “and” at the end of clause (ii);

13           (B) by redesignating clause (iii) as clause (iv);

14      and

15           (C) by inserting after clause (ii) the following  
16      new clause:

17           “(iii) shall include the creation of jobs in the  
18      United States as an evaluation factor that must be  
19      considered in the evaluation of proposals; and”.

20      (2) Section 2305(a)(3)(B) of such title is amended  
21      by striking “clause (iii)” and inserting “clause (iv)”.

1 **TITLE IX—DEPARTMENT OF**  
2 **DEFENSE ORGANIZATION**  
3 **AND MANAGEMENT**

4 **SEC. 901. CHANGE IN TITLE OF SECRETARY OF THE NAVY**  
5 **TO SECRETARY OF THE NAVY AND MARINE**  
6 **CORPS.**

7 (a) CHANGE IN TITLE.—The position of the Sec-  
8 retary of the Navy is hereby redesignated as the Secretary  
9 of the Navy and Marine Corps.

10 (b) REFERENCES.—Any reference to the Secretary of  
11 the Navy in any law, regulation, document, record, or  
12 other paper of the United States shall be considered to  
13 be a reference to the Secretary of the Navy and Marine  
14 Corps.

15 **SEC. 902. TRANSFER OF CENTER FOR THE STUDY OF CHI-**  
16 **NESE MILITARY AFFAIRS FROM NATIONAL**  
17 **DEFENSE UNIVERSITY TO UNITED STATES-**  
18 **CHINA ECONOMIC AND SECURITY REVIEW**  
19 **COMMISSION.**

20 (a) TRANSFER.—The Center for the Study of Chinese  
21 Military Affairs established by section 914 of the National  
22 Defense Authorization Act for Fiscal Year 2000 (10  
23 U.S.C. 2165 note) is transferred from the National De-  
24 fense University of the Department of Defense to the

1 United States-China Economic and Security Review Com-  
2 mission.

3 (b) CONFORMING AMENDMENT.—Subsection (a) of  
4 section 914 of the National Defense Authorization Act for  
5 2000 (10 U.S.C. 2165 note) is amended to read as follows:

6 “(a) ESTABLISHMENT.—There shall be a Center for  
7 the Study of Chinese Military Affairs organized under the  
8 United States-China Economic and Security Review Com-  
9 mission established by section 1238 of the Floyd D.  
10 Spence National Defense Authorization Act for Fiscal  
11 Year 2001 (22 U.S.C. 7002).”.

12 (c) REPEAL OF OBSOLETE PROVISIONS.—Such sec-  
13 tion is further amended by striking subsections (d) and  
14 (e).

15 (d) TECHNICAL AMENDMENTS TO COMMISSION  
16 CHARTER.—(1) Section 1238(c) of the Floyd D. Spence  
17 National Defense Authorization Act for Fiscal Year 2001  
18 (22 U.S.C. 7002) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “(beginning in 2002)”; and

21 (B) by adding at the end the following new  
22 sentence: “The report shall include a full dis-  
23 cussion of the activities of the Commission  
24 under each of the subparagraphs of paragraph  
25 (2).”; and



1 (2) in paragraph (2)—

2 (A) by striking the matter preceding sub-  
3 paragraph (A) and inserting the following:

4 “(2) AREAS OF FOCUS.—The Commission shall  
5 focus, in lieu of any other area of work or study, on  
6 the following:”; and

7 (B) by replacing subparagraphs (A)  
8 through (J) with the text of subparagraphs (A)  
9 through (I) of section 2(c)(2) of division P of  
10 Public Law 108–7 (22 U.S.C. 7002 note).

11 (2) Section 2(c)(2) of division P of Public Law 108–  
12 7 (22 U.S.C. 7002 note) is repealed.

13 (e) EFFECTIVE DATE.—Subsection (a) and the  
14 amendment made by subsection (b) shall take effect at the  
15 end of the 90-day period beginning on the date of the en-  
16 actment of this Act.

17 **SEC. 903. TRANSFER TO SECRETARY OF THE ARMY OF RE-**  
18 **SPONSIBILITY FOR ASSEMBLED CHEMICAL**  
19 **WEAPONS ALTERNATIVES PROGRAM.**

20 Effective January 1, 2005, the text of section 142  
21 of the Strom Thurmond National Defense Authorization  
22 Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C.  
23 1521 note) is amended to read as follows:

1       “(a) PROGRAM MANAGEMENT.—(1) The program  
2 manager for the Assembled Chemical Weapons Alter-  
3 natives program shall report to the Secretary of the Army.

4       “(2) The Secretary of the Army shall provide for that  
5 program to be managed as part of the management orga-  
6 nization within the Department of the Army specified in  
7 section 1412(e) of Public Law 99–145 (50 U.S.C.  
8 1521(e)).

9       “(b) CONTINUED IMPLEMENTATION OF PREVIOUSLY  
10 SELECTED ALTERNATIVE TECHNOLOGIES.—(1) In car-  
11 rying out the destruction of lethal chemical munitions at  
12 Pueblo Chemical Depot, Colorado, the Secretary of the  
13 Army shall continue to implement fully the alternative  
14 technology for such destruction at that depot selected by  
15 the Under Secretary of Defense for Acquisition, Tech-  
16 nology, and Logistics on July 16, 2002.

17       “(2) In carrying out the destruction of lethal chem-  
18 ical munitions at Blue Grass Army Depot, Kentucky, the  
19 Secretary of the Army shall continue to implement fully  
20 the alternative technology for such destruction at that  
21 depot selected by the Under Secretary of Defense for Ac-  
22 quisition, Technology, and Logistics on February 3,  
23 2003.”.

1 **SEC. 904. MODIFICATION OF OBLIGATED SERVICE RE-**  
2 **QUIREMENTS UNDER NATIONAL SECURITY**  
3 **EDUCATION PROGRAM.**

4 (a) IN GENERAL.—Subsection (b)(2) of section 802  
5 of the David L. Boren National Security Education Act  
6 of 1991 (50 U.S.C. 1902) is amended by striking subpara-  
7 graphs (A) and (B), as added by section 925(a) of the  
8 National Defense Authorization Act for Fiscal Year 2004  
9 (Public Law 108–136; 117 Stat. 1578), and inserting the  
10 following:

11 “(A) in the case of a recipient of a scholar-  
12 ship, as soon as practicable but in no case later  
13 than three years after the completion by the re-  
14 cipient of the study for which scholarship as-  
15 sistance was provided under the program, the  
16 recipient shall work for a period of one year—

17 “(i) in a national security position  
18 that the Secretary certifies is appropriate  
19 to use the unique language and region ex-  
20 pertise acquired by the recipient pursuant  
21 to such study in the Department of De-  
22 fense, in any element of the intelligence  
23 community, in the Department of Home-  
24 land Security, or in the Department of  
25 State; or

1                   “(ii) in such a position in any other  
2                   Federal department or agency not referred  
3                   to in clause (i) if the recipient dem-  
4                   onstrates to the Secretary that no position  
5                   is available in a Federal department or  
6                   agency specified in clause (i); or

7                   “(B) in the case of a recipient of a fellow-  
8                   ship, as soon as practicable but in no case later  
9                   than two years after the completion by the re-  
10                  cipient of the study for which fellowship assist-  
11                  ance was provided under the program, the re-  
12                  cipient shall work for a period equal to the du-  
13                  ration of assistance provided under the pro-  
14                  gram, but in no case less than one year—

15                  “(i) in a position described in sub-  
16                  paragraph (A)(i) that the Secretary cer-  
17                  tifies is appropriate to use the unique lan-  
18                  guage and region expertise acquired by the  
19                  recipient pursuant to such study; or

20                  “(ii) in such a position in any other  
21                  Federal department or agency not referred  
22                  to in clause (i) if the recipient dem-  
23                  onstrates to the Secretary that no position  
24                  is available in a Federal department or  
25                  agency specified in clause (i); and”.

1 (b) REGULATIONS.—The Secretary of Defense shall  
2 prescribe regulations to carry out the amendment made  
3 by subsection (a). In prescribing such regulations, the Sec-  
4 retary shall establish standards that recipients of scholar-  
5 ship and fellowship assistance under the program under  
6 such section 802 are required to demonstrate to satisfy  
7 the requirement of a good faith effort to gain employment  
8 as required under subparagraphs (A) and (B) of sub-  
9 section (b)(2) of such section.

10 (c) APPLICABILITY.—(1) The amendment made by  
11 subsection (a) shall apply with respect to service agree-  
12 ments entered into under the David L. Boren National  
13 Security Education Act of 1991 on or after the date of  
14 the enactment of this Act.

15 (2) The amendment made by subsection (a) shall not  
16 affect the force, validity, or terms of any service agreement  
17 entered into under the David L. Boren National Security  
18 Education Act of 1991 before the date of the enactment  
19 of this Act that is in force as of that date.

20 **SEC. 905. CHANGE OF MEMBERSHIP OF CERTAIN COUN-**  
21 **CILS.**

22 (a) MEMBERSHIP OF ARMED FORCES POLICY COUN-  
23 CIL.—Section 171(a) of title 10, United States Code, is  
24 amended by adding at the end the following new para-  
25 graph:

1           “(14) The Commandant of the Coast Guard,  
2           for discussion of matters pertaining to the Coast  
3           Guard.”.

4           (b) MEMBERSHIP OF COUNCIL UNDER SECTION  
5 179.—Subsection (a) of section 179 of title 10, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing new paragraph:

8           “(4) The Under Secretary of Defense for Pol-  
9           icy.”.

10          (b) CONFORMING AND CLARIFYING AMENDMENTS.—  
11 Such subsection is further amended in the matter pre-  
12 ceding paragraph (1)—

13           (1) by striking “Joint”; and

14           (2) by striking “composed of three members as  
15 follows:” and inserting “operated as a joint activity  
16 of the Department of Defense and the Department  
17 of Energy. The membership of the Council is com-  
18 prised of the following officers of those depart-  
19 ments:”.

20          (c) OTHER TECHNICAL AND CLARIFYING AMEND-  
21 MENTS.—Such section is further amended as follows:

22           (1) Subsection (c)(3)(B) is amended by striking  
23 “appointed” and inserting “designated”.

1           (2) Subsection (e) is amended by striking “In  
2           addition” and all that follows through “also” and in-  
3           serting “The Council shall”.

4           (3) Subsection (f) is amended by striking  
5           “Committee on” the first place it appears and all  
6           that follows through “Representatives” and inserting  
7           “congressional defense committees”.

8           (d) STYLISTIC AMENDMENTS.—Such section is fur-  
9           ther amended as follows:

10           (1) Subsection (a) is amended by inserting “ES-  
11           TABLISHMENT; MEMBERSHIP.—” after “(a)”.

12           (2) Subsection (b) is amended by inserting  
13           “CHAIRMAN; MEETINGS.—” after “(b)”.

14           (3) Subsection (c) is amended by inserting  
15           “STAFF AND ADMINISTRATIVE SERVICES; STAFF  
16           DIRECTOR.—” after “(c)”.

17           (4) Subsection (d) is amended by inserting  
18           “RESPONSIBILITIES.—” after “(d)”.

19           (5) Subsection (e) is amended by inserting  
20           “REPORT ON DIFFICULTIES RELATING TO SAFETY  
21           OR RELIABILITY.—” after “(e)”.

22           (6) Subsection (f) is amended by inserting “AN-  
23           NUAL REPORT.—” after “(f)”.

1 (e) FURTHER CONFORMING AMENDMENT.—Section  
2 3212(e) of the National Nuclear Security Administration  
3 Act (50 U.S.C. 2402(e)) is amended—

4 (1) by striking “JOINT” in the subsection head-  
5 ing; and

6 (2) by striking “Joint”.

7 **SEC. 906. ACTIONS TO PREVENT THE ABUSE OF DETAIN-**  
8 **EES.**

9 (a) POLICIES REQUIRED.—The Secretary of Defense  
10 shall prescribe policies regarding procedures for the  
11 Armed Forces and other elements of the Department of  
12 Defense and contractor personnel of the Department of  
13 Defense intended to prevent the conditions leading to acts  
14 of abuse of detainees who are held by the United States  
15 as part of the Global War on Terrorism. Policies under  
16 this subsection shall be prescribed not later than 120 days  
17 after the date of the enactment of this Act.

18 (b) MATTERS TO BE INCLUDED.—In order to achieve  
19 the objective stated in subsection (a), the policies on the  
20 prevention of abuse of detainees under that subsection  
21 shall specify, at a minimum, procedures for the following:

22 (1) Ensuring that commanders of detention fa-  
23 cilities and commanders of interrogation facilities  
24 provide all assigned personnel (including contractor  
25 personnel) with training, and documented acknowl-



1       edgement of receiving training, regarding the Gene-  
2       va Convention Relative to the Treatment of Pris-  
3       oners of War and established Standing Operating  
4       Procedures for the treatment of detainees. Training  
5       provided under this paragraph to contractor per-  
6       sonnel shall be at least comparable in degree to that  
7       provided to members of the Armed Forces.

8           (2) Providing all detainees with information, in  
9       their own language, of the protections afforded  
10      under the Geneva Convention Relative to the Treat-  
11      ment of Prisoners of War.

12          (3) Conducting periodic unannounced and an-  
13      nounced inspections of prisons and other areas  
14      where detainees are held in order to provide contin-  
15      ued oversight of interrogation and detention oper-  
16      ations.

17          (4) Prohibiting contact between male guards  
18      and female detainees and between female guards  
19      and male detainees, except under exigent cir-  
20      cumstances.

21      (c) REPORTS TO CONGRESS.—The Secretary of De-  
22      fense shall submit to the Committees on Armed Services  
23      of the Senate and House of Representatives—

1           (1) a copy of the policies prescribed pursuant to  
2       subsection (a), immediately after those policies are  
3       prescribed; and

4           (2) a report on the implementation of those  
5       policies, not later than one year after the date on  
6       which those policies are prescribed.

7   **SEC. 907. RESPONSES TO CONGRESSIONAL INQUIRIES.**

8       (a) IN GENERAL.—(1) Chapter 3 of title 10, United  
9       States Code, is amended by inserting after section 113a  
10      the following new section:

11   **“§ 113b. Response to congressional inquiries**

12       “Whenever the Secretary of Defense or any other of-  
13      ficial of the Department of Defense is requested by the  
14      chairman of the Committee on Armed Services of the Sen-  
15      ate or the chairman of the Committee on Armed Services  
16      of the House of Representatives to respond to a question  
17      or inquiry submitted by the chairman or another member  
18      of that committee pursuant to a committee hearing or  
19      other activity, the Secretary (or other official) shall re-  
20      spond to the request, in writing, within 21 days of the  
21      date on which the request is transmitted to the Secretary  
22      (or other official).”.

23       (b) CLERICAL AMENDMENT.—The table of sections  
24      at the beginning of such chapter is amended by inserting

1 after the item relating to section 113a the following new  
2 item:

“113b. Response to congressional inquiries.”.

3 **SEC. 908. SECRETARY OF DEFENSE GUIDANCE ON IDENTI-**  
4 **FICATION AND INTERNAL TRANSMISSION OF**  
5 **CRITICAL INFORMATION.**

6 (a) DEFENSE GUIDANCE.—The Secretary of Defense  
7 shall establish criteria for determining the types of critical  
8 information required to be made known expeditiously to  
9 senior decision makers in the Department of Defense. The  
10 types of information specified should be matters of ex-  
11 traordinary significance and potential strategic impact  
12 and should be immediately necessary to facilitate timely  
13 information management in the high-level, decision-mak-  
14 ing process affecting successful mission accomplishment.  
15 The Secretary may from time to time modify the list to  
16 suit the current strategic situation, as necessary. The Sec-  
17 retary should provide to the Secretaries of the military de-  
18 partments, the commanders of deployed forces, and other  
19 elements of the Department of Defense guidance for the  
20 purposes of identifying those critical information require-  
21 ments.

22 (b) MATTERS TO BE INCLUDED.—The guidance  
23 under subsection (a) shall include, at a minimum, require-  
24 ment for identification of the following:

1           (1) Any incident that may require a military  
2           contingency based on the incident's nature, gravity,  
3           or potential for significant adverse consequences to  
4           United States citizens, military personnel, or assets,  
5           including an incident that provides opportunities for  
6           significant adverse publicity of a nature that could  
7           have a strategic impact.

8           (2) Any event, development, or situation that  
9           can be reasonably assumed to escalate into a signifi-  
10          cant adverse incident described in paragraph (1).

11          (3) Any deficiency or error in policy, standards,  
12          or training that can be reasonably assumed to foster  
13          significant adverse incidents described in paragraph  
14          (1).

15          (c) POLICY FOR TRANSMISSION OF INFORMATION TO  
16          OSD.—The Secretary of Defense shall establish a policy  
17          for the transmission from any element of the Department  
18          of Defense as expeditiously as possible to the Secretary  
19          of Defense and the Joint Chiefs of Staff of any report,  
20          assessment, or evaluation commissioned from any level  
21          within the Department of Defense that results in the iden-  
22          tification of any of the items on the list required by sub-  
23          section (a). As part of that policy, the Secretary should  
24          establish a timetable for transmission of any such report,  
25          assessment, or evaluation to the responsible major com-

1 mand upon receipt of the final document by the commis-  
2 sioning authority.

3 (d) TIME FOR ISSUANCE OF GUIDANCE.—The Sec-  
4 retary of Defense shall establish the list required by sub-  
5 section (a) and issue the guidance required by that sub-  
6 section not later than 90 days after the date of the enact-  
7 ment of this Act.

## 8 **TITLE X—GENERAL PROVISIONS**

### 9 **Subtitle A—Financial Matters**

#### 10 **SEC. 1001. TRANSFER AUTHORITY.**

11 (a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

12 (1) Upon determination by the Secretary of Defense that  
13 such action is necessary in the national interest, the Sec-  
14 retary may transfer amounts of authorizations made avail-  
15 able to the Department of Defense in this division for fis-  
16 cal year 2005 between any such authorizations for that  
17 fiscal year (or any subdivisions thereof). Amounts of au-  
18 thorizations so transferred shall be merged with and be  
19 available for the same purposes as the authorization to  
20 which transferred.

21 (2) The total amount of authorizations that the Sec-  
22 retary may transfer under the authority of this section  
23 may not exceed \$3,000,000,000. Of such amount,  
24 \$500,000,000 may be used only for a transfer from an  
25 account for an active component to an account for a re-

1 serve component, or from an account of a reserve compo-  
2 nent to an account of an active component, of the same  
3 Armed Force.

4 (b) LIMITATIONS.—The authority provided by this  
5 section to transfer authorizations—

6 (1) may only be used to provide authority for  
7 items that have a higher priority than the items  
8 from which authority is transferred;

9 (2) may not be used to provide authority for an  
10 item that has been denied authorization by Con-  
11 gress; and

12 (3) may not be combined with the authority  
13 provided under section 1519.

14 (c) EFFECT ON AUTHORIZATION AMOUNTS.—A  
15 transfer made from one account to another under the au-  
16 thority of this section shall be deemed to increase the  
17 amount authorized for the account to which the amount  
18 is transferred by an amount equal to the amount trans-  
19 ferred.

20 (d) NOTICE TO CONGRESS.—The Secretary shall  
21 promptly notify Congress of each transfer made under  
22 subsection (a).

1 **SEC. 1002. BUDGET JUSTIFICATION DOCUMENTS FOR OP-**  
2 **ERATION AND MAINTENANCE.**

3 (a) IN GENERAL.—(1) Chapter 9 of title 10, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new section:

6 **“§ 232. Operations and maintenance budget presen-**  
7 **tation**

8 “(a) IN GENERAL.—In this section

9 “(1) The term ‘O&M justification documents’  
10 means Department of Defense budget justification  
11 documents with respect to accounts for operation  
12 and maintenance submitted to the congressional de-  
13 fense committees in support of the Department of  
14 Defense component of the President’s budget for  
15 any fiscal year.

16 “(2) The term ‘President’s budget’ means the  
17 budget of the President submitted to Congress  
18 under section 1105 of title 31 for any fiscal year.

19 “(3) The term ‘current year’ means the fiscal  
20 year during which the President’s budget is sub-  
21 mitted in any year.

22 “(b) IDENTIFICATION OF BASELINE AMOUNTS IN  
23 O&M JUSTIFICATION DOCUMENTS.—In any case in which  
24 the amount requested in the President’s budget for a fiscal  
25 year for a Department of Defense operations and mainte-  
26 nance program, project, or activity is different from the

1 amount appropriated for that program, project, or activity  
2 for the current year, the O&M justification documents  
3 supporting that budget shall identify that appropriated  
4 amount and the difference between that amount and the  
5 amount requested in the budget, stated as an amount and  
6 as a percentage.

7 “(c) PERSONAL SERVICE CONTRACTS.—In the O&M  
8 justification documents for any fiscal year, costs pro-  
9 grammed in the budget for that fiscal year for Department  
10 of Defense for personal service contracts, and the number  
11 of personal service contractors to be used by the Depart-  
12 ment of Defense during that fiscal year who will be com-  
13 pensated at an annual rate in excess of the annual rate  
14 of salary of the Vice President under section 104 of title  
15 3, shall be separately set forth and identified.

16 “(d) NAVY SUBACTIVITIES FOR SHIP DEPOT MAIN-  
17 TENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the  
18 Navy for any fiscal year, amounts requested for ship depot  
19 maintenance and amounts requested for intermediate ship  
20 maintenance shall be set forth as separate budget sub-  
21 activity groups.

22 “(e) CIVILIAN AVERAGE SALARY COSTS.—In the  
23 O&M justification documents for any fiscal year, average  
24 civilian salary costs, shown by subactivity group, shall be  
25



1 set forth as a component of the personnel summary ex-  
 2 hibit.”.

3 (2) The table of sections at the beginning of such  
 4 chapter is amended by adding at the end the following  
 5 new item:

“232. Operations and maintenance budget presentation.”.

6 (b) COMPONENTS OF LINE ITEMS FOR OTHER COSTS  
 7 AND OTHER CONTRACTS.—Not later than March 1, 2005,  
 8 the Secretary of Defense shall submit to the congressional  
 9 defense committees a report setting forth the component  
 10 elements of the line items identified as “Other Costs” and  
 11 “Other Contracts” in the exhibit identified as “Summary  
 12 of Price and Program Changes” in the budget justification  
 13 materials submitted to those committees in support of the  
 14 budget for fiscal year 2006.

15 **SEC. 1003. RETENTION OF FEES FROM INTELLECTUAL**  
 16 **PROPERTY LICENSES.**

17 (a) IN GENERAL.—Chapter 165 of title 10, United  
 18 States Code, is amended by adding at the end the fol-  
 19 lowing new section:

20 **“§ 2788. Licensing of intellectual property of the mili-**  
 21 **tary departments; authority to charge**  
 22 **and retain fees**

23 “(a) AUTHORITY TO RETAIN FEES.—(1) Under reg-  
 24 ulations prescribed by the Secretary of Defense, the Sec-  
 25 retary concerned may license trademarks, service marks,

1 certification marks, and collective marks owned by a mili-  
2 tary department and may retain and expend fees received  
3 from such licensing in accordance with subsection (b).

4 “(2) In this section, the terms ‘trademark’, ‘service  
5 mark’, ‘certification mark’, ‘collective mark’, and ‘mark’  
6 have the meanings given those terms in section 45 of the  
7 Trademark Act of 1946 (15 U.S.C. 1127).

8 “(b) USE OF LICENSING FEES.—(1) Funds received  
9 by a military department from licensing under subsection  
10 (a)(1) shall be used for the expenses incurred by the de-  
11 partment in securing the registration of marks owned by  
12 the department and in licensing those marks.

13 “(2) If the amount of fees received by a military de-  
14 partment during any fiscal year from the licensing of  
15 marks exceeds the anticipated expenses under paragraph  
16 (1) during that year, the Secretary concerned may des-  
17 ignate those funds as excess and expend them as provided  
18 in paragraph (3).

19 “(3) Not more than 50 percent of any such excess  
20 funds shall be available for military personnel recruiting  
21 and retention activities of the department. The remainder  
22 of such funds shall be available for morale, welfare, and  
23 recreation activities of the department.

1 “(4) Funds received pursuant to subsection (a)(1)  
 2 shall remain available for two years after the end of the  
 3 fiscal year during which the funds are received.”.

4 (b) CLERICAL AMENDMENT.—The table of sections  
 5 at the beginning of such chapter is amended by adding  
 6 at the end the following new item:

“2788. Licensing of intellectual property of the military departments; authority  
 to charge and retain fees.”.

7 **SEC. 1004. AUTHORITY TO WAIVE CLAIMS OF THE UNITED**  
 8 **STATES WHEN AMOUNTS RECOVERABLE ARE**  
 9 **LESS THAN COSTS OF COLLECTION.**

10 (a) AUTHORITY.—Chapter 165 of title 10, United  
 11 States Code, is amended by inserting after section 2780  
 12 the following new section:

13 **“§ 2780a. Debt collection: general waiver authority**  
 14 **for small amounts owed the United States**

15 “(a) AUTHORITY.—In the case of an indebtedness to  
 16 the United States described in subsection (b) that is for  
 17 an amount that is less than the threshold amount specified  
 18 in subsection (c), the Secretary of Defense may, under  
 19 regulations prescribed under this section, cancel the in-  
 20 debtedness and waive recovery of the amount owed. Such  
 21 authority may be used only when, based on a cost-benefit  
 22 analysis, the Secretary determines that the costs of collec-  
 23 tion are expected to exceed the amount recoverable.

1       “(b) COVERED DEBTS.—(1) Except as provided in  
2 paragraph (2), this section applies with respect to  
3 amounts owed to the United States that arise out of the  
4 activities of, or that are referred to, the Department of  
5 Defense (including amounts owed by members of the  
6 armed forces and Department of Defense civilian per-  
7 sonnel).

8       “(2) The authority under this section does not apply  
9 to amounts owed to the United States arising out of activi-  
10 ties of the Department of Defense that have been referred  
11 to another executive agency for collection action or that  
12 are otherwise within the purview of another executive  
13 agency.

14       “(c) MAXIMUM AMOUNT WAIVABLE.—The threshold  
15 amount referred to in subsection (a) is the micropurchase  
16 threshold amount in effect under section 32 of the Office  
17 of Federal Procurement Policy Act (41 U.S.C. 428).

18       “(d) REGULATIONS.—The Secretary of Defense shall  
19 prescribe regulations for the purposes of this section.”.

20       (b) CLERICAL AMENDMENT.—The table of sections  
21 at the beginning of such chapter is amended by inserting  
22 after the item relating to section 2780 the following new  
23 item:

“2780a. Debt collection: general waiver authority for small amounts owed the  
United States.”.

1 **SEC. 1005. REPEAL OF FUNDING RESTRICTIONS CON-**  
2 **CERNING DEVELOPMENT OF MEDICAL COUN-**  
3 **TERMEASURES AGAINST BIOLOGICAL WAR-**  
4 **FARE THREATS.**

5 (a) REPEAL.—Section 2370a of title 10, United  
6 States Code, is repealed.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of chapter 139 of such title is amended  
9 by striking the item relating to that section.

10 **SEC. 1006. REPORT ON BUDGETING FOR EXCHANGE RATES**  
11 **FOR FOREIGN CURRENCY FLUCTUATIONS.**

12 (a) SECRETARY OF DEFENSE REPORT.—(1) Not  
13 later than December 1, 2004, the Secretary Defense shall  
14 submit to the Committees on Armed Services of the Sen-  
15 ate and House of Representatives a report on the foreign  
16 currency exchange rate projection used in annual Depart-  
17 ment of Defense budget presentations.

18 (2) In the report under paragraph (1), the Secretary  
19 shall—

20 (A) identify alternative approaches for selecting  
21 foreign currency exchange rates that would produce  
22 more realistic estimates of amounts required to be  
23 appropriated or otherwise made available for the De-  
24 partment of Defense to accommodate foreign cur-  
25 rency exchange rate fluctuations;

1 (B) address the advantages and disadvantages  
2 of each approach identified pursuant to subpara-  
3 graph (A);

4 (C) identify the Secretary's preferred approach  
5 among the alternatives identified pursuant to sub-  
6 paragraph (A) and provide the Secretary's rationale  
7 for preferring that approach.

8 (3) In identifying alternative approaches pursuant to  
9 paragraph (2)(A), the Secretary shall examine—

10 (A) approaches used by other Federal depart-  
11 ments and agencies; and

12 (B) the feasibility of using private economic  
13 forecasting.

14 (b) COMPTROLLER GENERAL REVIEW AND RE-  
15 PORT.—The Comptroller General of the United States  
16 shall review the report under subsection (a), including the  
17 basis for the Secretary's conclusions stated in the report,  
18 and shall submit to the Committees on Armed Services  
19 of the Senate and House of Representatives a report con-  
20 taining the Comptroller General's conclusions with respect  
21 to that report. Such report shall be submitted not later  
22 than January 15, 2005.

23 **SEC. 1007. FISCAL YEAR 2004 TRANSFER AUTHORITY.**

24 Section 1001(a)(2) of the National Defense Author-  
25 ization Act for Fiscal Year 2004 (Public Law 108–136;

1 117 Stat. 1582) is amended by striking “\$2,500,000,000”  
 2 and inserting “\$3,000,000,000”.

3 **SEC. 1008. REPORT ON AMOUNTS REMITTED AND REIM-**  
 4 **BURSED DURING FISCAL YEAR 2004 UNDER**  
 5 **SECTION 1007 OF PUBLIC LAW 108-136.**

6 Not later than 30 days after the end of fiscal year  
 7 2004, the Secretary of Defense shall submit to the con-  
 8 gressional defense committees a report on amounts remit-  
 9 ted and reimbursed during fiscal year 2004 under section  
 10 1007 of the National Defense Authorization Act for Fiscal  
 11 Year 2004 (Public Law 108-136; 117 Stat. 1585; 10  
 12 U.S.C. 2241 note).

13 **Subtitle B—Naval Vessels and**  
 14 **Shipyards**

15 **SEC. 1011. AUTHORITY FOR AWARD OF CONTRACTS FOR**  
 16 **SHIP DISMANTLING ON NET-COST BASIS.**

17 (a) IN GENERAL.—Chapter 633 of title 10, United  
 18 States Code, is amended by inserting after section 7305  
 19 the following new section:

20 **“§ 7305a. Vessels stricken from Naval Vessel Register:**  
 21 **contracts for dismantling on net-cost**  
 22 **basis**

23 **“(a) AUTHORITY FOR NET-COST BASIS CON-**  
 24 **TRACTS.**—When the Secretary of the Navy awards a con-  
 25 tract for the dismantling of a vessel stricken from the

1 Naval Vessel Register, the Secretary may award the con-  
2 tract on a net-cost basis.

3 “(b) RETENTION BY CONTRACTOR OF PROCEEDS OF  
4 SALE OF SCRAP AND REUSABLE ITEMS.—When the Sec-  
5 retary awards a contract on a net-cost basis under sub-  
6 section (a), the Secretary shall provide in the contract that  
7 the contractor may retain the proceeds from the sale of  
8 scrap and reusable items removed from the vessel disman-  
9 tled under the contract.

10 “(c) DEFINITIONS.—In this section:

11 “(1) The term ‘net-cost basis’, with respect to  
12 a contract for the dismantling of a vessel, means  
13 that the amount to be paid to the contractor under  
14 the contract for dismantling and for removal and  
15 disposal of hazardous waste material is discounted  
16 by the offeror’s estimate of the value of scrap and  
17 reusable items that the contractor will remove from  
18 the vessel during performance of the contract.

19 “(2) The term ‘scrap’ means personal property  
20 that has no value except for its basic material con-  
21 tent.

22 “(3) The term ‘reusable item’ means a demili-  
23 tarized component or a removable portion of a vessel  
24 or equipment that the Secretary of the Navy has  
25 identified as excess to the needs of the Navy but



1       which has potential resale value on the open mar-  
 2       ket.”.

3       (b) CLERICAL AMENDMENT.—The table of sections  
 4       at the beginning of such chapter is amended by inserting  
 5       after the item relating to section 7305 the following new  
 6       item:

“7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling  
 on net-cost basis.”.

7       **SEC. 1012. INDEPENDENT STUDY TO ASSESS COST EFFEC-**  
 8                               **TIVENESS OF THE NAVY SHIP CONSTRUC-**  
 9                               **TION PROGRAM.**

10       (a) STUDY.—The Secretary of Defense shall provide  
 11       for a study, to be conducted by an entity independent of  
 12       the Department of Defense, of the cost effectiveness of  
 13       the ship construction program of the Navy. The purpose  
 14       of the study shall be to examine both—

15               (1) a variety of approaches by which the Navy  
 16       ship construction program could be made more effi-  
 17       cient in the near term; and

18               (2) a variety of approaches by which, with a na-  
 19       tionally integrated effort over the next decade, the  
 20       United States shipbuilding industry might be made  
 21       competitive globally.

22       (b) NEAR TERM IMPROVEMENTS IN EFFICIENCY.—  
 23       With respect to the examination under subsection (a)(1)  
 24       of approaches by which the Navy ship construction pro-

1 gram could be made more efficient in the near term, the  
2 Secretary shall provide for the entity conducting the  
3 study—

4 (1) to determine, with respect to each approach  
5 so examined, the cost savings that could result from  
6 implementation of that approach over each of the  
7 next 10 years;

8 (2) to recommend one or more of the ap-  
9 proaches examined under subsection (a)(1) for im-  
10 plementation; and

11 (3) for each approach recommended under  
12 paragraph (2) for implementation, to develop a con-  
13 cept and implementation plan by which the rec-  
14 ommended improvements could best be phased into  
15 the naval ship construction program.

16 (c) GLOBAL COMPETITIVENESS OF UNITED STATES  
17 SHIPBUILDING INDUSTRY.—With respect to the examina-  
18 tion under subsection (a)(2) of approaches by which, with  
19 a nationally integrated effort over the next decade, the  
20 United States shipbuilding industry might be made com-  
21 petitive globally, the Secretary shall provide for the entity  
22 conducting the study—

23 (1) to develop a plan to modernize the United  
24 States shipbuilding infrastructure within the next

1 decade in order to make the United States ship-  
 2 building industry more competitive globally; and

3 (2) to estimate the resources required to carry  
 4 out a modernization plan developed under paragraph  
 5 (1).

6 (d) REPORT.—Not later than June 1, 2005, the Sec-  
 7 retary of Defense shall submit to the congressional defense  
 8 committees a report providing the results of the study  
 9 under subsection (a). The report shall include the matters  
 10 specified in subsections (b) and (c).

11 **SEC. 1013. AUTHORITY TO TRANSFER SPECIFIED FORMER**  
 12 **NAVAL VESSELS TO CERTAIN FOREIGN COUN-**  
 13 **TRIES.**

14 (a) AUTHORITY TO TRANSFER BY GRANT.—The  
 15 President is authorized to transfer vessels to foreign coun-  
 16 tries on a grant basis under section 516 of the Foreign  
 17 Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

18 (1) CHILE.—The “SPRUANCE” class de-  
 19 stroyer O’BANNON (DD–987) to the Government  
 20 of Chile.

21 (2) PORTUGAL.—The “OLIVER HAZARD  
 22 PERRY” class guided missile frigate GEORGE  
 23 PHILIP (FFG–12) to the Government of Portugal.

24 (b) AUTHORITY TO TRANSFER BY SALE.—The Presi-  
 25 dent is authorized to transfer on a sale basis under section

1 21 of the Arms Export Control Act (22 U.S.C. 2761) the  
2 “ANCHORAGE” class dock landing ship ANCHORAGE  
3 (LSD-36) to the Taipei Economic and Cultural Rep-  
4 resentative Office in the United States (which is the Tai-  
5 wan instrumentality designated pursuant to section 10(a)  
6 of the Taiwan Relations Act).

7 (c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF  
8 TRANSFERRED EXCESS DEFENSE ARTICLES.—The value  
9 of a vessel transferred to another country on a grant basis  
10 under section 516 of the Foreign Assistance Act of 1961  
11 (22 U.S.C. 2321j) pursuant to authority provided by sub-  
12 section (a) shall not be counted for the purposes of sub-  
13 section (g) of that section in the aggregate value of excess  
14 defense articles transferred to countries under that section  
15 in any fiscal year.

16 (d) COSTS OF TRANSFERS.—Any expense incurred by  
17 the United States in connection with a transfer authorized  
18 by this section shall be charged to the recipient (notwith-  
19 standing section 516(e) of the Foreign Assistance Act of  
20 1961 (22 U.S.C. 2321j (e)) in the case of a transfer au-  
21 thorized to be made on a grant basis under subsection  
22 (a)).

23 (e) REPAIR AND REFURBISHMENT IN UNITED  
24 STATES SHIPYARDS.—To the maximum extent prac-  
25 ticable, the President shall require, as a condition of the

1 transfer of a vessel under this section, that the country  
2 to which the vessel is transferred have such repair or re-  
3 furbishment of the vessel as is needed, before the vessel  
4 joins the naval forces of that country, performed at a ship-  
5 yard located in the United States, including a United  
6 States Navy shipyard.

7 (f) EXPIRATION OF AUTHORITY.—The authority to  
8 transfer a vessel under this section shall expire at the end  
9 of the two-year period beginning on the date of the enact-  
10 ment of this Act.

11 **SEC. 1014. LIMITATION ON LEASING OF FOREIGN-BUILT**  
12 **VESSELS.**

13 (a) IN GENERAL.—(1) Chapter 141 of title 10,  
14 United States Code, is amended by inserting after section  
15 2401a the following new section:

16 **“§ 2401b. Limitation on lease of foreign-built vessels**

17 “(a) LIMITATION.—The Secretary of a military de-  
18 partment may not make a contract for a lease or charter  
19 of a vessel for a term of more than 12 months (including  
20 all options to renew or extend the contract) if the hull,  
21 a major component of the hull, or superstructure of the  
22 vessel is constructed in a foreign shipyard.

23 “(b) PRESIDENTIAL WAIVER FOR NATIONAL SECU-  
24 RITY INTEREST.—(1) The President may authorize excep-  
25 tions to the limitation in subsection (a) when the President

1 determines that it is in the national security interest of  
2 the United States to do so.

3 “(2) The President shall transmit notice to Congress  
4 of any such determination, and no contract may be made  
5 pursuant to the exception authorized until the end of the  
6 30-day period beginning on the date on which the notice  
7 of the determination is received by Congress.”.

8 (2) The table of sections at the beginning of such  
9 chapter is amended by inserting after the item relating  
10 to section 2401a the following new item:

“2401b. Limitation on lease of foreign-built vessels.”.

11 (b) EFFECTIVE DATE.—Section 2401b of title 10,  
12 United States Code, as added by subsection (a), shall  
13 apply with respect to contracts entered into after the date  
14 of the enactment of this Act.

## 15 **Subtitle C—Sunken Military Craft**

### 16 **SEC. 1021. PRESERVATION OF TITLE TO SUNKEN MILITARY** 17 **CRAFT AND ASSOCIATED CONTENTS.**

18 Right, title, and interest of the United States in and  
19 to any United States sunken military craft shall not be  
20 extinguished by the passage of time, regardless of when  
21 the sunken military craft sank.

### 22 **SEC. 1022. PROHIBITIONS.**

23 (a) UNAUTHORIZED ACTIVITIES DIRECTED AT  
24 SUNKEN MILITARY CRAFT.—No person shall engage in  
25 or attempt to engage in any activity directed at a sunken

1 military craft that disturbs, removes, or injures any sunk-  
2 en military craft, except—

3 (1) as authorized by a permit under this sub-  
4 title;

5 (2) as authorized by regulations issued under  
6 this subtitle; or

7 (3) as otherwise authorized by law.

8 (b) POSSESSION OF SUNKEN MILITARY CRAFT.—No  
9 person may possess, disturb, remove, or injure any sunken  
10 military craft in violation of—

11 (1) this section; or

12 (2) any prohibition, rule, regulation, ordinance,  
13 or permit that applies under any other applicable  
14 Federal, foreign, or other law.

15 (c) LIMITATIONS ON APPLICATION.—

16 (1) ACTIONS BY UNITED STATES.—This section  
17 shall not apply to actions taken by, or at the direc-  
18 tion of, the United States.

19 (2) FOREIGN PERSONS.—This section shall not  
20 apply to any action by a person who is not a citizen,  
21 national, or resident alien of the United States, ex-  
22 cept in accordance with—

23 (A) generally recognized principles of inter-  
24 national law;

1           (B) an agreement between the United  
2           States and the foreign country of which the  
3           person is a citizen; or

4           (C) in the case of an individual who is a  
5           crew member or other individual on a foreign  
6           vessel or foreign aircraft, an agreement between  
7           the United States and the flag State of the for-  
8           eign vessel or aircraft that applies to the indi-  
9           vidual.

10          (3) LOAN OF SUNKEN MILITARY CRAFT.—This  
11          section does not prohibit the loan of United States  
12          sunken military craft in accordance with regulations  
13          issued by the Secretary concerned.

14   **SEC. 1023. PERMITS.**

15          (a) IN GENERAL.—The Secretary concerned may  
16          issue a permit authorizing a person to engage in an activ-  
17          ity otherwise prohibited by section 1022 with respect to  
18          a United States military craft, for archaeological, histor-  
19          ical, or educational purposes, in accordance with regula-  
20          tions issued by such Secretary that implement this section.

21          (b) CONSISTENCY WITH OTHER LAWS.—The Sec-  
22          retary concerned shall require that any activity carried out  
23          under a permit issued by such Secretary under this section  
24          must be consistent with all requirements and restrictions  
25          that apply under any other provision of Federal law.



1       (c) CONSULTATION.—In carrying out this section (in-  
2 cluding the issuance after the date of the enactment of  
3 this Act of regulations implementing this section), the Sec-  
4 retary concerned shall consult with the head of each Fed-  
5 eral agency having authority under Federal law with re-  
6 spect to activities directed at sunken military craft or the  
7 locations of such craft.

8       **SEC. 1024. PENALTIES.**

9       (a) IN GENERAL.—Any person who violates this sub-  
10 title, or any regulation or permit issued under this sub-  
11 title, shall be liable to the United States for a civil penalty  
12 under this section.

13       (b) ASSESSMENT AND AMOUNT.—The Secretary con-  
14 cerned may assess a civil penalty under this section, after  
15 notice and an opportunity for a hearing, of not more than  
16 \$100,000 for each violation.

17       (c) CONTINUING VIOLATIONS.—Each day of a contin-  
18 ued violation of this subtitle or a regulation or permit  
19 issued under this subtitle shall constitute a separate viola-  
20 tion for purposes of this section.

21       **SEC. 1025. LIABILITY FOR DAMAGES.**

22       (a) IN GENERAL.—Any person who engages in an ac-  
23 tivity in violation of section 1022 or any regulation or per-  
24 mit issued under this subtitle that disturbs, removes, or  
25 injures any United States sunken military craft shall pay

1 the United States enforcement costs and damages result-  
2 ing from such disturbance, removal, or injury.

3 (b) INCLUDED DAMAGES.—Damages referred to in  
4 subsection (a) may include—

5 (1) the reasonable costs incurred in storage,  
6 restoration, care, maintenance, conservation, and  
7 curation of any sunken military craft that is dis-  
8 turbed, removed, or injured in violation of section  
9 1022 or any regulation or permit issued under this  
10 subtitle; and

11 (2) the cost of retrieving, from the site where  
12 the sunken military craft was disturbed, removed, or  
13 injured, any information of an archaeological, histor-  
14 ical, or cultural nature.

15 **SEC. 1026. RELATIONSHIP TO OTHER LAWS.**

16 (a) IN GENERAL.—Except to the extent that an ac-  
17 tivity is undertaken as a subterfuge for activities prohib-  
18 ited by this subtitle, nothing in this subtitle is intended  
19 to affect—

20 (1) any activity that is not directed at a sunken  
21 military craft; or

22 (2) the traditional high seas freedoms of navi-  
23 gation, including—

24 (A) the laying of submarine cables and  
25 pipelines;

- 1 (B) operation of vessels;
- 2 (C) fishing; or
- 3 (D) other internationally lawful uses of the
- 4 sea related to such freedoms.

5 (b) INTERNATIONAL LAW.—This subtitle and any  
6 regulations implementing this subtitle shall be applied in  
7 accordance with generally recognized principles of inter-  
8 national law and in accordance with the treaties, conven-  
9 tions, and other agreements to which the United States  
10 is a party.

11 (c) LAW OF FINDS.—The law of finds shall not apply  
12 to any United States sunken military craft, wherever lo-  
13 cated.

14 (d) LAW OF SALVAGE.—No salvage rights or awards  
15 shall be granted with respect to any sunken military craft  
16 without the express permission of the United States.

17 (e) LAW OF CAPTURE OR PRIZE.—Nothing in this  
18 subtitle is intended to alter the international law of cap-  
19 ture or prize with respect to sunken military craft.

20 (f) LIMITATION OF LIABILITY.—Nothing in sections  
21 4281 through 4287 and 4289 of the Revised Statutes (46  
22 U.S.C. App. 181 et seq.) or section 3 of the Act of Feb-  
23 ruary 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C.  
24 App. 192), shall limit the liability of any person under this  
25 section.

1 (g) AUTHORITIES OF THE COMMANDANT OF THE  
2 COAST GUARD.—Nothing in this subtitle is intended to  
3 preclude or limit the application of any other law enforce-  
4 ment authorities of the Commandant of the Coast Guard.

5 (h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND  
6 RELATED REGULATIONS.—Nothing in this subtitle shall  
7 invalidate any prior delegation, authorization, or related  
8 regulation that is consistent with this subtitle.

9 (i) CRIMINAL LAW.—Nothing in this subtitle is in-  
10 tended to prevent the United States from pursuing crimi-  
11 nal sanctions for plundering of wrecks, larceny of Govern-  
12 ment property, or violation of any applicable criminal law.

13 **SEC. 1027. ENCOURAGEMENT OF AGREEMENTS WITH FOR-**  
14 **EIGN COUNTRIES.**

15 The Secretary of State, in consultation with the Sec-  
16 retary of Defense, is encouraged to negotiate and conclude  
17 bilateral and multilateral agreements with foreign coun-  
18 tries with regard to sunken military craft consistent with  
19 this subtitle.

20 **SEC. 1028. DEFINITIONS.**

21 In this subtitle:

22 (1) ASSOCIATED CONTENTS.—The term “asso-  
23 ciated contents” means—

1 (A) the equipment, cargo, and contents of  
2 a sunken military craft that are within its de-  
3bris field; and

4 (B) the remains and personal effects of the  
5 crew and passengers of a sunken military craft  
6 that are within its debris field.

7 (2) SECRETARY.—The term “Secretary” means  
8 the Secretary of a military department.

9 (3) SUNKEN MILITARY AIRCRAFT.—The term  
10 “sunken military aircraft” means any sunken mili-  
11 tary aircraft that was owned or operated by the  
12 United States when it sank.

13 (4) SUNKEN MILITARY CRAFT.—The term  
14 “sunken military craft” means any sunken military  
15 vessel, sunken military aircraft, or associated con-  
16 tents, or any portion thereof, the title to which has  
17 not been abandoned or transferred in a manner pre-  
18 scribed by the United States.

19 (5) SUNKEN MILITARY VESSEL.—The term  
20 “sunken military vessel” means any sunken warship  
21 or naval auxiliary of the United States that is a pub-  
22 lic vessel as that term is used in the Act of March  
23 3, 1925 (chapter 428; 46 U.S.C. App. 781 et seq.),  
24 popularly known as the Public Vessels Act.

1           (6) UNITED STATES CONTIGUOUS ZONE.—The  
2       term “United States contiguous zone” means the  
3       contiguous zone of the United States under Presi-  
4       dential Proclamation 7219, dated September 2,  
5       1999.

6           (7) UNITED STATES INTERNAL WATERS.—The  
7       term “United States internal waters” means all wa-  
8       ters of the United States on the landward side of the  
9       baseline from which the breadth of the United  
10      States territorial sea is measured.

11          (8) UNITED STATES TERRITORIAL SEA.—The  
12      term “United States territorial sea” means the wa-  
13      ters of the United States territorial sea under Presi-  
14      dential Proclamation 5928, dated December 27,  
15      1988.

16          (9) UNITED STATES WATERS.—The term  
17      “United States waters” means United States inter-  
18      nal waters, the United States territorial sea, and the  
19      United States contiguous zone.

## **Subtitle D—Counter-Drug Activities**

### **SEC. 1031. CONTINUATION OF AUTHORITY TO USE DEPARTMENT OF DEFENSE FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.**

(a) AUTHORITY TO PROVIDE ASSISTANCE.—During fiscal years 2005 and 2006, the Secretary of Defense may use funds made available to the Department of Defense for drug interdiction and counter-drug activities to provide assistance to the Government of Colombia—

(1) to support a unified campaign against narcotics trafficking in Colombia;

(2) to support a unified campaign against activities by designated terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC); and

(3) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) RELATION TO OTHER ASSISTANCE AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority provided by law.

1 tion to other provisions of law authorizing the provision  
2 of assistance to the Government of Colombia.

3 **SEC. 1032. LIMITATION ON NUMBER OF UNITED STATES**  
4 **MILITARY PERSONNEL IN COLOMBIA.**

5 (a) LIMITATION.—None of the funds available to the  
6 Department of Defense for any fiscal year may be used  
7 to support or maintain more than 500 members of the  
8 Armed Forces on duty in the Republic of Colombia at any  
9 time.

10 (b) EXCLUSION OF CERTAIN MEMBERS.—For pur-  
11 poses of determining compliance with the limitation in  
12 subsection (a), the Secretary of Defense may exclude the  
13 following military personnel:

14 (1) A member of the Armed Forces in the Re-  
15 public of Colombia for the purpose of rescuing or re-  
16 trieving United States military or civilian Govern-  
17 ment personnel, except that the period for which  
18 such a member may be so excluded may not exceed  
19 30 days unless expressly authorized by law.

20 (2) A member of the Armed Forces assigned to  
21 the United States Embassy in Colombia as an  
22 attaché, as a member of the security assistance of-  
23 fice, or as a member of the Marine Corps security  
24 contingent.



1           (3) A member of the Armed Forces in Colombia  
2           to participate in relief efforts in responding to a nat-  
3           ural disaster.

4           (4) Nonoperational transient military personnel.

5           (5) A member of the Armed Forces making a  
6           port call from a military vessel in Colombia.

7                           **Subtitle E—Reports**

8   **SEC. 1041. STUDY OF CONTINUED REQUIREMENT FOR TWO-**  
9                           **CREW MANNING FOR BALLISTIC MISSILE**  
10                          **SUBMARINES.**

11           (a) STUDY AND DETERMINATION.—The Secretary of  
12   Defense shall conduct a study of whether the practice of  
13   using two alternating crews (referred to as the “Gold  
14   Crew” and the “Blue Crew”) for manning of ballistic mis-  
15   sile submarines (SSBNs) continues to be justified under  
16   the changed circumstances since the end of the Cold War  
17   and, based on that study, shall make a determination of  
18   whether that two-crew manning practice should be contin-  
19   ued or should be modified or terminated.

20           (b) REPORT.—Not later than six months after the  
21   date of the enactment of this Act, the Secretary shall sub-  
22   mit to the Committees on Armed Services of the Senate  
23   and House of Representatives a report providing notice  
24   of the Secretary’s determination under subsection (a) and  
25   the reasons for that determination.

1 **SEC. 1042. STUDY OF EFFECT ON DEFENSE INDUSTRIAL**  
2 **BASE OF ELIMINATION OF UNITED STATES**  
3 **DOMESTIC FIREARMS MANUFACTURING**  
4 **BASE.**

5 Not later than 60 days after the date of the enact-  
6 ment of this Act, the Secretary of Defense shall submit  
7 to the congressional defense committees a report describ-  
8 ing in detail the effect on both military readiness and the  
9 defense industrial base that would result from the elimi-  
10 nation of the United States domestic firearms manufac-  
11 turing base.

12 **SEC. 1043. STUDY OF EXTENT AND QUALITY OF TRAINING**  
13 **PROVIDED TO MEMBERS OF THE ARMED**  
14 **SERVICES TO PREPARE FOR POST-CONFLICT**  
15 **OPERATIONS.**

16 (a) **STUDY REQUIRED.**—The Secretary of Defense  
17 shall conduct a study to determine the extent to which  
18 members of the Armed Forces assigned to duty in support  
19 of contingency operations receive training in preparation  
20 for post-conflict operations and to evaluate the quality of  
21 such training

22 (b) **MATTERS INCLUDED IN STUDY.**—As part of the  
23 study under subsection (a), the Secretary shall specifically  
24 evaluate the following:

25 (1) The doctrine, training, and leader-develop-  
26 ment system necessary to enable members of the

1 Armed Forces to successfully operate in post-conflict  
2 operations.

3 (2) The adequacy of curricula at military edu-  
4 cational facilities to ensure that the Armed Forces  
5 has a cadre of members skilled in post-conflict du-  
6 ties, foreign languages, and foreign cultures.

7 (3) The training time and resources available to  
8 members and units to develop cultural awareness  
9 about ethnic backgrounds, religious beliefs, and po-  
10 litical loyalties of the people living in areas in which  
11 the Armed Forces operate.

12 (4) The organization of the combatant com-  
13 mands to conduct post-conflict operations.

14 (c) SUBMISSION OF STUDY RESULTS.—Not later  
15 than March 15, 2005, the Secretary of Defense shall sub-  
16 mit to the Committee on Armed Services of the Senate  
17 and the Committee on Armed Services of the House of  
18 Representatives a report containing the results of the  
19 study conducted under this section.

## 20 **Subtitle F—Security Matters**

### 21 **SEC. 1051. USE OF NATIONAL DRIVER REGISTER FOR PER-** 22 **SONNEL SECURITY INVESTIGATIONS AND DE-** 23 **TERMINATIONS.**

24 Section 30305(b) of title 49, United States Code, is  
25 amended—

1           (1) by redesignating paragraphs (9) through  
2           (11) as paragraphs (10) through (12), respectively;  
3           and

4           (2) by inserting after paragraph (8) the fol-  
5           lowing new paragraph:

6           “(9) An individual who has or is seeking access to  
7           national security information for purposes of Executive  
8           Order No. 12968, or any successor Executive order, or  
9           an individual who is being investigated for Federal em-  
10          ployment under authority of Executive Order No. 10450,  
11          or any successor Executive order, may request the chief  
12          driver licensing official of a State to provide information  
13          about the individual pursuant to subsection (a) of this sec-  
14          tion to a Federal department or agency that is authorized  
15          to investigate the individual for the purpose of assisting  
16          in the determination of the eligibility of the individual for  
17          access to national security information or for Federal em-  
18          ployment. A Federal department or agency that receives  
19          such information about an individual may use it in accord-  
20          ance with applicable law.”.

21   **SEC. 1052. STANDARDS FOR DISQUALIFICATION FROM ELI-**  
22                           **GIBILITY FOR DEPARTMENT OF DEFENSE SE-**  
23                           **CURITY CLEARANCE.**

24          (a) DISQUALIFIED PERSONS.—Subsection (c)(1) of  
25          section 986 of title 10, United States Code, is amended—

1 (1) by striking “and” and inserting “, was”;  
 2 and

3 (2) and inserting before the period at the end  
 4 the following: “, and was incarcerated as a result of  
 5 that sentence for not less than one year”.

6 (b) WAIVER AUTHORITY.—Subsection (d) of such  
 7 section is amended to read as follows:

8 “(d) WAIVER AUTHORITY.—In a meritorious case, an  
 9 exception to the prohibition in subsection (a) may be au-  
 10 thorized for a person described in paragraph (1) or (4)  
 11 of subsection (c) if there are mitigating factors. Any such  
 12 waiver may be authorized only in accordance with stand-  
 13 ards and procedures prescribed by, or under the authority  
 14 of, an Executive orders or other guidance issued by the  
 15 President.”.

## 16 **Subtitle G—Transportation-Related** 17 **Matters**

### 18 **SEC. 1061. USE OF MILITARY AIRCRAFT TO TRANSPORT** 19 **MAIL TO AND FROM OVERSEAS LOCATIONS.**

20 (a) AUTHORITY FOR USE OF MILITARY AIRCRAFT.—  
 21 Section 3401 of title 39, United States Code, is  
 22 amended—

23 (1) in subsection (b)—

24 (A) in the matter preceding paragraph

25 (1)(A), by striking “title 49,” and inserting

1 “title 49, or on military aircraft at rates not to  
2 exceed those so fixed and determined for sched-  
3 uled United States air carriers,”; and

4 (B) in the sentence following paragraph  
5 (3), by striking “carriers” each place it appears  
6 and inserting “carriers and military aircraft”;  
7 and

8 (2) in subsection (c)—

9 (A) in the first sentence, by striking “title  
10 49,” and inserting “title 49, or on military air-  
11 craft at rates not to exceed those so fixed and  
12 determined for scheduled United States air car-  
13 riers,”; and

14 (B) in the second sentence—

15 (i) by inserting “and military air-  
16 craft” after “carriers” the first place it ap-  
17 pears; and

18 (ii) by striking “by air carriers other  
19 than scheduled United States air carriers”  
20 and inserting “by other than scheduled  
21 United States air carriers and military air-  
22 craft”.

23 (b) DEFINITION.—Such section is further amended  
24 by adding at the end the following new subsection:

1       “(g) In this section, the term ‘military aircraft’  
2 means an aircraft owned, operated, or chartered by the  
3 Department of Defense.”.

4       **SEC. 1062. REORGANIZATION AND CLARIFICATION OF CER-**  
5                   **TAIN PROVISIONS RELATING TO CONTROL**  
6                   **AND SUPERVISION OF TRANSPORTATION**  
7                   **WITHIN THE DEPARTMENT OF DEFENSE.**

8       (a) TRANSFER OF CERTAIN TRANSPORTATION AU-  
9 THORITIES.—Sections 4744, 4745, 4746, and 4747 of  
10 title 10, United States Code, are transferred to chapter  
11 157 of such title, inserted (in that order) at the end of  
12 such chapter, and redesignated as sections 2648, 2649,  
13 2650, and 2651, respectively.

14       (b) CLARIFICATION OF APPLICABILITY OF TRANS-  
15 FERRED AUTHORITIES THROUGHOUT THE DEPARTMENT  
16 OF DEFENSE.—(1) Section 2648 of such title, as trans-  
17 ferred and redesignated by subsection (a), is amended—

18               (A) by striking “Secretary of the Army” in the  
19 matter preceding paragraph (1) and inserting “Sec-  
20 retary of Defense”;

21               (B) by striking “Army transport agencies” in  
22 the matter preceding paragraph (1) and all that fol-  
23 lows through “military transport agency of”; and

24               (C) by striking paragraphs (1), (2), and (3);

1 (D) by redesignating paragraph (4), (5), (6),  
 2 and (7) as paragraphs (1), (2), (3), and (4), respec-  
 3 tively;

4 (E) by redesignating paragraph (8) as para-  
 5 graph (5) and in that paragraph striking “persons  
 6 described in clauses (1), (2), (4), (5), and (7)” and  
 7 inserting “members of the armed forces, officers and  
 8 employees of the Department of Defense or the  
 9 Coast Guard, and persons described i paragraphs  
 10 (1), (2), and (4)”;

11 (F) by striking “clause (7) or (8)” in the last  
 12 sentence and inserting “paragraph (4) or (5)”.

13 (2) Section 2649 of such title, as transferred and re-  
 14 designated by subsection (a), is amended—

15 (A) by striking the section heading and insert-  
 16 ing the following:

17 **“§ 2649. Civilian passengers and commercial cargoes:**  
 18 **transportation on Department of Defense**  
 19 **vessels”;**

20 (B) by striking “(1) on vessels” and all that  
 21 follows through “Department of the Army”;

22 (C) by striking “any transport agency of”; and

23 (D) by striking “Secretary of the Army” and all  
 24 that follows through “be transported” and inserting  
 25 “Secretary of Defense, be transported”.



1       (3) Section 2650 of such title, as transferred and re-  
2 designated by subsection (a), is amended—

3           (A) in the matter preceding paragraph (1), by  
4 striking “Army transport agencies” and all that fol-  
5 lows through “military transport agency of”;

6           (B) in paragraph (1), by striking “Secretary of  
7 the Army” and inserting “Secretary of Defense”;  
8 and

9           (C) in paragraph (4), by striking “by air—”  
10 and all that follows through “the transportation can-  
11 not” and inserting “by air, the transportation can-  
12 not”.

13       (4) Section 2651 of such title, as transferred and re-  
14 designated by subsection (a), is amended by striking  
15 “Army transport agencies” and all that follows and insert-  
16 ing “the Department of Defense, under regulations and  
17 at rates to be prescribed by the Secretary of Defense.”.

18       (c) REPEAL OF SUPERSEDED AND OBSOLETE PROVI-  
19 SIONS.—The following sections of such title are repealed:  
20 sections 4741, 4743, 9741, 9743, and 9746.

21       (d) CLERICAL AMENDMENTS.—

22           (1) The table of sections at the beginning of  
23 chapter 157 of such title is amended by adding at  
24 the end the following new items:

“2648. Persons and supplies: sea transportation.

“2649. Civilian passengers and commercial cargoes: transportation on Depart-  
ment of Defense vessels.

“2650. Civilian personnel in Alaska.

“2651. Passengers and merchandise to Guam: sea transport.”.

1           (2) The table of sections at the beginning of  
2           chapter 447 of such title is amended by striking the  
3           items relating to sections 4741, 4743, 4744, 4745,  
4           4746, and 4747.

5           (3) The table of sections at the beginning of  
6           chapter 947 of such title is amended by striking the  
7           items relating to sections 9741, 9743, and 9746.

8 **SEC. 1063. DETERMINATION OF WHETHER PRIVATE AIR**  
9                           **CARRIERS ARE CONTROLLED BY UNITED**  
10                          **STATES CITIZENS FOR PURPOSES OF ELIGI-**  
11                          **BILITY FOR GOVERNMENT CONTRACTS FOR**  
12                          **TRANSPORTATION OF PASSENGERS OR SUP-**  
13                          **PLIES.**

14           Section 2710 of the Emergency Wartime Supple-  
15           mental Appropriations Act, 2003 (Public Law 108–11;  
16           117 Stat. 601), is amended by adding at the end the fol-  
17           lowing new sentence: “Any determination for purposes of  
18           this section of whether (in accordance with the first pro-  
19           viso of this section) an air carrier is effectively controlled  
20           by citizens of the United States shall be made by, or shall  
21           be based on determinations made by, the Secretary of  
22           Transportation.”.

1 **SEC. 1064. EVALUATION OF WHETHER TO PROHIBIT CER-**  
2 **TAIN OFFERS FOR TRANSPORTATION OF SE-**  
3 **CURITY-SENSITIVE CARGO.**

4 (a) EVALUATION REQUIREMENT.—The Secretary of  
5 Defense shall evaluate whether, and under what cir-  
6 cumstances, in the award of service contracts for domestic  
7 freight transportation for security-sensitive cargo (such as  
8 arms, ammunitions, explosive, and classified material), the  
9 Secretary should not consider an offer or tender from  
10 more than one motor carrier that is part of a group of  
11 motor carriers under common financial or administrative  
12 control. In conducting the evaluation, the Secretary shall  
13 seek industry comment.

14 (b) REPORT.—Not later than January 1, 2005, the  
15 Secretary of Defense shall submit to the Committees on  
16 Armed Services of the House of Representatives and the  
17 Senate a report on the results of the evaluation conducted  
18 under subsection (a).

19 **SEC. 1065. PHASED IMPLEMENTATION OF NEW PROGRAM**  
20 **FOR TRANSPORTING HOUSEHOLD GOODS OF**  
21 **MEMBERS OF THE ARMED FORCES.**

22 The Secretary of Defense may not implement the new  
23 program for the transportation of household goods of  
24 members of the Armed Forces and their dependents be-  
25 yond phase I of the program, which includes the testing  
26 of electronic bill processing at 14 sites, until the Secretary

1 submits to Congress a report evaluating whether Phase  
2 I met its objectives and whether it is in the best interest  
3 of the Department of Defense and members of the Armed  
4 Forces to move forward to Phase II of the program.

## 5           **Subtitle H—Other Matters**

6   **SEC. 1071. TWO-YEAR EXTENSION OF AUTHORITY OF THE**  
7                   **SECRETARY OF DEFENSE TO ENGAGE IN**  
8                   **COMMERCIAL ACTIVITIES AS SECURITY FOR**  
9                   **INTELLIGENCE COLLECTION ACTIVITIES**  
10                  **ABROAD.**

11       Section 431(a) of title 10, United States Code, is  
12 amended by striking “December 31, 2004” and inserting  
13 “December 31, 2006”.

14   **SEC. 1072. ASSISTANCE FOR STUDY OF FEASIBILITY OF BI-**  
15                   **ENNIAL INTERNATIONAL AIR TRADE SHOW**  
16                   **IN THE UNITED STATES AND FOR INITIAL IM-**  
17                   **PLEMENTATION.**

18       (a) ASSISTANCE FOR COMMUNITY FEASIBILITY  
19 STUDY.—(1) The Secretary of Defense shall provide as-  
20 sistance to a community selected under subsection (d) for  
21 expenses of a study by that community of the feasibility  
22 of the establishment and operation of a biennial inter-  
23 national air trade show in the area of that community.

24       (2) The Secretary shall provide for the community  
25 to submit to the Secretary a report containing the results

1 of the study not later than September 30, 2005. The Sec-  
2 retary shall promptly submit the report to Congress, to-  
3 gether with such comments on the report as the Secretary  
4 considers appropriate.

5 (b) ASSISTANCE FOR IMPLEMENTATION.—If the  
6 community conducting the study under subsection (a) de-  
7 termines that the establishment and operation of such an  
8 air show is feasible and should be implemented, the Sec-  
9 retary shall provide assistance to the community for the  
10 initial expenses of implementing such an air show in the  
11 selected community.

12 (c) AMOUNT OF ASSISTANCE.—The amount of assist-  
13 ance provided by the Secretary under subsections (a) and  
14 (b)—

15 (1) may not exceed a total of \$1,000,000, to be  
16 derived from amounts available for operation and  
17 maintenance for the Air Force for fiscal year 2005  
18 or later fiscal years; and

19 (2) may not exceed one-half of the cost of the  
20 study and may not exceed one-half the cost of such  
21 initial implementation.

22 (d) SELECTION OF COMMUNITY.—The Secretary  
23 shall select a community for purposes of subsection (a)  
24 through the use of competitive procedures. In making such  
25 selection, the Secretary shall give preference to those com-

1 munities that already sponsor an air show, have dem-  
2 onstrated a history of supporting air shows with local re-  
3 sources, and have a significant role in the aerospace com-  
4 munity. The community shall be selected not later than  
5 March 1, 2005.

6 **SEC. 1073. TECHNICAL AND CLERICAL AMENDMENTS.**

7 (a) CLARIFICATION OF DEFINITION OF “OPER-  
8 ATIONAL RANGE”.—Section 101(e)(3) of title 10, United  
9 States Code, is amended by striking “Secretary of De-  
10 fense” and inserting “Secretary of a military depart-  
11 ment”.

12 (b) AMENDMENTS RELATING TO DEFINITION OF  
13 CONGRESSIONAL DEFENSE COMMITTEES.—

14 (1) Chapter 169 of such title is amended as fol-  
15 lows:

16 (A) Paragraph (4) of section 2801(c) is  
17 amended to read as follows:

18 “(4) The term ‘congressional defense commit-  
19 tees’ includes, with respect to any project to be car-  
20 ried out by, or for the use of, an intelligence compo-  
21 nent of the Department of Defense—

22 “(A) the Permanent Select Committee on  
23 Intelligence of the House of Representatives;  
24 and

1 “(B) the Select Committee on Intelligence  
2 of the Senate.”.

3 (B) The following sections are amended by  
4 striking “appropriate committees of Congress”  
5 each place it appears and inserting “congres-  
6 sional defense committees”: sections 2803(b),  
7 2804(b), 2805(b)(2), 2806(c)(2), 2807(b),  
8 2807(c), 2808(b), 2809(f)(1), 2811(d),  
9 2812(c)(1)(A), 2813(c), 2814(a)(2)(A),  
10 2814(g)(1), 2825(b)(1), 2827(b), 2828(f),  
11 2835(g), 2836(f), 2837(c)(2), 2853(c)(2),  
12 2854(b), 2854a(c)(1), 2865(e)(2), 2866(c)(2),  
13 2875(e), 2881a(d)(2), 2881a(e), 2883(f), and  
14 2884(a).

15 (2) Section 2215 is amended—

16 (A) by striking “(a) CERTIFICATION RE-  
17 QUIRED.—”;

18 (B) by striking “congressional committees  
19 specified in subsection (b)” and inserting “con-  
20 gressional defense committees”; and

21 (C) by striking subsection (b).

22 (3) Section 2306b(g) is amended by striking  
23 “Committee on” the first place it appears and all  
24 that follows through “House of Representatives”  
25 and inserting “congressional defense committees”.

1 (4) Section 2515(d) is amended—

2 (A) by striking “(1)” before “The Sec-  
3 retary”;

4 (B) by striking “congressional committees  
5 specified in paragraph (2)” and inserting “con-  
6 gressional defense committees”; and

7 (C) by striking paragraph (2).

8 (5) Section 2676(d) is amended by striking  
9 “appropriate committees of Congress” at the end of  
10 the first sentence and inserting “congressional de-  
11 fense committees”.

12 (6) Section 2694a is amended by striking “ap-  
13 propriate committees of Congress” in subsections (e)  
14 and (i)(1) and inserting “congressional defense com-  
15 mittees”.

16 (c) AMENDMENTS RELATING TO DEFINITION OF  
17 BASE CLOSURE LAWS.—

18 (1) Section 2694a(i) of title 10, United States  
19 Code, is amended by striking paragraph (2).

20 (2) Paragraph (1) of section 1333(i) of the Na-  
21 tional Defense Authorization Act for Fiscal Year  
22 1994 (Public Law 103–160; 10 U.S.C. 2701 note)  
23 is amended to read as follows:



1           “(1) BASE CLOSURE LAW.—The term ‘base clo-  
2       sure law’ has the meaning given such term in section  
3       101(a)(17) of title 10, United States Code.”.

4           (3) Subsection (b) of section 2814 of the Mili-  
5       tary Construction Authorization Act for Fiscal Year  
6       1995 (division B of Public Law 103–337; 10 U.S.C.  
7       2687 note) is amended to read as follows:

8           “(b) BASE CLOSURE LAW DEFINED.—In this sec-  
9       tion, the term ‘base closure law’ has the meaning given  
10      such term in section 101(a)(17) of title 10, United States  
11      Code.”.

12          (4) Subsection (c) of section 3341 of title 5,  
13      United States Code, is amended to read as follows:

14          “(c) For purposes of this section, the term ‘base clo-  
15      sure law’ has the meaning given such term in section  
16      101(a)(17) of title 10.”.

17          (5)(A) Paragraph (1) of section 554(a) of title  
18      40, United States Code, is amended to read as fol-  
19      lows:

20           “(1) BASE CLOSURE LAW.—The term ‘base clo-  
21      sure law’ has the meaning given that term in section  
22      101(a)(17) of title 10.”.

23          (B) Subparagraph (B) of section 572(b)(1) of  
24      title 40 is amended to read as follows:

1                   “(B) BASE CLOSURE LAW.—The term  
2                   ‘base closure law’ has the meaning given that  
3                   term in section 101(a)(17) of title 10.”.

4           (d) DEFINITION OF STATE FOR PURPOSES OF SEC-  
5 TION 2694A.—Subsection (i) of section 2694a of title 10,  
6 United States Code, as amended by subsections (b)(6) and  
7 (c)(1), is further amended—

8                   (1) by inserting after paragraph (1) the fol-  
9                   lowing new paragraph (2):

10                   “(2) The term ‘State’ includes the District of  
11                   Columbia, the Commonwealth of Puerto Rico, the  
12                   Commonwealth of the Northern Mariana Islands,  
13                   Guam, the Virgin Islands, and American Samoa.”;  
14                   and

15                   (2) by striking paragraph (4).

16           (e) MISCELLANEOUS AMENDMENTS TO TITLE 10,  
17 UNITED STATES CODE.—Title 10, United States Code, is  
18 amended as follows:

19                   (1) The tables of chapters at the beginning of  
20                   subtitle A, and at the beginning of part I of subtitle  
21                   A, are amended by striking “481” in the item relat-  
22                   ing to chapter 23 and inserting “480”.

23                   (2) Section 130a is amended—

24                               (A) by striking “Effective October 1, 2002,  
25                   the” in subsection (a) and inserting “The”;

1 (B) by striking “baseline number” in sub-  
2 section (a) and all that follows through “means  
3 the” in subsection (c);

4 (C) by transferring subsection (e) so as to  
5 appear before subsection (d) and redesignating  
6 that subsection as subsection (b);

7 (D) by redesignating subsections (d) and  
8 (f) as subsection (c) and (d), respectively; and

9 (E) by striking subsection (g).

10 (3) Section 437(c) is amended by inserting “(50  
11 U.S.C. 415b)” after “National Security Act of  
12 1947”.

13 (4) Section 487(d) is amended by striking  
14 “OTHER DEFINITIONS” and inserting “INAPPLICA-  
15 BILITY TO COAST GUARD”.

16 (5) Section 503(c)(1)(B) is amended by striking  
17 “education” in the second sentence and inserting  
18 “educational”.

19 (6) Section 632(c)(1) is amended—

20 (A) by striking “paragraph (2)” and in-  
21 serting “paragraph (3)”; and

22 (B) by striking “under that paragraph”  
23 and inserting “under that subsection”.

1           (7) The item relating to section 1076b in the  
2           table of sections at the beginning of chapter 55 is  
3           amended to read as follows:

“1076b. TRICARE program: coverage for members of the Ready Reserve.”.

4           (8) Section 1108(e) is amended by striking  
5           “heath” and inserting “health”.

6           (9) Section 1406(g) is amended—

7                   (A) by striking “section 305” and insert-  
8                   ing “section 245”; and

9                   (B) by inserting “(33 U.S.C. 3045)” after  
10           “of 2002”.

11           (10) Sections 1448(b)(1)(F), 1448(d)(2)(B),  
12           1448(d)(6)(A), and 1458(j) are amended by striking  
13           “on or after the date of the enactment of the Na-  
14           tional Defense Authorization Act for Fiscal Year  
15           2004” and inserting “after November 23, 2003,”.

16           (11) Sections 1463(a), 1465(c)(1)(A),  
17           1465(c)(1)(B), 1465(c)(4)(A), 1465(c)(4)(B), and  
18           1466(b)(2)(D) are amended by striking “1413,  
19           1413a,” and inserting “1413a”.

20           (12) Section 1557(b) is amended by striking  
21           “Effective October 1, 2002, final” and inserting  
22           “Final”.

23           (13) Section 1566 is amended—

24                   (A) in subsection (g)(2), by striking “the  
25                   date that is 6 months after the date of the en-

1           actment of the Help America Vote Act of  
2           2002” in the last sentence and inserting “April  
3           29, 2003”; and

4           (B) in subsections (h), (i)(1), and (i)(3),  
5           by striking “Armed Forces” and inserting  
6           “armed forces”.

7           (14) Sections 1724(d) and 1732(d)(1) are  
8           amended by striking “its decision” in the second  
9           sentence and inserting “the decision of the Sec-  
10          retary”.

11          (15) Section 1761(b) is amended—

12           (A) in the matter preceding paragraph (1),  
13           by striking “provide for—” and inserting “pro-  
14           vide for the following.”;

15           (B) in paragraphs (1), (2), and (3), by  
16           capitalizing the first letter of the first word;

17           (C) at the end of paragraphs (1) and (2),  
18           by striking the semicolon and inserting a pe-  
19           riod;

20           (D) at the end of paragraph (3), by strik-  
21           ing “; and” and inserting a period; and

22           (E) by striking paragraph (4).

23          (16) Section 2193b(c)(2) is amended by strik-  
24          ing “the date of the enactment of this section” and  
25          inserting “October 5, 1999”.

1           (17) Section 2224(c) is amended in the matter  
2 preceding paragraph (1) by striking “subtitle II of  
3 chapter 35” and inserting “subchapter II of chapter  
4 35”.

5           (18) Section 2349(d) is amended by striking  
6 “section 2350a(i)(3)” and inserting “section  
7 2350a(i)(2)”.

8           (19) Section 2350b(g) is amended—

9                   (A) in the matter preceding paragraph (1),  
10 by inserting “the Secretary of Defense” after  
11 “authorizing”; and

12                   (B) in paragraph (1), by striking “the Sec-  
13 retary of Defense”.

14           (20) Section 2540(b)(2) is amended by insert-  
15 ing “, as in effect on that date” before the period  
16 at the end.

17           (21) Section 2662(a)(2) is amended—

18                   (A) in the first sentence, by striking “must  
19 include a summarization” and inserting “shall  
20 include a summary”; and

21                   (B) in the second sentence, by inserting  
22 “of paragraph (1)” after “in subparagraph  
23 (E)”.

24           (22) Section 2672a(a) is amended—

1 (A) in the matter preceding paragraph (1),  
2 by inserting “in any case in which the Secretary  
3 determines” after “in land”;

4 (B) in paragraph (1), by striking “the Sec-  
5 retary determines” and inserting “the acquisi-  
6 tion”; and

7 (C) in paragraph (2), by inserting “the ac-  
8 quisition” after “(2)”.

9 (23) Section 2701 is amended—

10 (A) in subsection (a)(2), by inserting “(42  
11 U.S.C. 9620)” before the period at the end;

12 (B) in subsection (c)(2), by striking “of  
13 CERCLA (relating to settlements)” and insert-  
14 ing “(relating to settlements) of CERCLA (42  
15 U.S.C. 9622)”;

16 (C) in subsection (e), by inserting “(42  
17 U.S.C. 9619)” after “CERCLA”; and

18 (D) in subsection (j)(2), by striking “the  
19 Comprehensive” and all the follows through “of  
20 1980” and inserting “CERCLA”.

21 (24) Section 2702 is amended by inserting “(42  
22 U.S.C. 9660(a)(5))” in the second sentence of sub-  
23 section (a) before the period at the end.

24 (25) Section 2703(b) is amended by striking  
25 “The terms” at the beginning of the second sentence

1 and inserting “For purposes of the preceding sen-  
2 tence, the terms”.

3 (26) Section 2704 is amended by inserting “(42  
4 U.S.C. 9604(i))” in subsections (c), (e), and (f)  
5 after “CERCLA”.

6 (27) The second section 3755, added by section  
7 543(b)(1) of the Bob Stump National Defense Au-  
8 thorization Act for Fiscal Year 2003 (Public Law  
9 107–314; 116 Stat. 2549), is redesignated as section  
10 3756, and the item relating to that section in the  
11 table of sections at the beginning of chapter 357 is  
12 revised to reflect such redesignation.

13 (28) Section 4689 is amended by striking  
14 “Building” after “Capitol”.

15 (29) The second section 6257, added by section  
16 543(c)(1) of the Bob Stump National Defense Au-  
17 thorization Act for Fiscal Year 2003 (Public Law  
18 107–314; 116 Stat. 2549), is redesignated as section  
19 6258, and the item relating to that section in the  
20 table of sections at the beginning of chapter 567 is  
21 revised to reflect such redesignation.

22 (30) Section 7102 is amended—

23 (A) by striking “AUTHORITY” at the begin-  
24 ning of subsection (a) and inserting “MASTER  
25 OF MILITARY STUDIES”;



1 (B) by striking “MARINE CORPS WAR  
2 COLLEGE” at the beginning of subsection (b)  
3 and inserting “MASTER OF STRATEGIC STUD-  
4 IES”;

5 (C) by striking “COMMAND AND STAFF  
6 COLLEGE OF THE MARINE CORPS UNIVER-  
7 SITY” at the beginning of subsection (c) and in-  
8 serting “MASTER OF OPERATIONAL STUDIES”;  
9 and

10 (D) by striking “subsections (a) and (b)”  
11 in subsection (d) and inserting “this section”.

12 (31) Section 8084 is amended by striking  
13 “capabilty” and inserting “capability”.

14 (32) The second section 8755, added by section  
15 543(d)(1) of the Bob Stump National Defense Au-  
16 thorization Act for Fiscal Year 2003 (Public Law  
17 107–314; 116 Stat. 2550), is redesignated as section  
18 8756, and the item relating to that section in the  
19 table of sections at the beginning of chapter 857 is  
20 revised to reflect such redesignation.

21 (33) The table in section 12012(a) is amended  
22 by inserting a colon after “Air National Guard”.

23 (f) TITLE 37, UNITED STATES CODE.—Section  
24 323(h) of title 37, United States Code, is amended by

1 striking “Secretary of Transportation” and inserting  
2 “Secretary of Homeland Security”.

3 (g) PUBLIC LAW 108–136.—Effective as of Novem-  
4 ber 24, 2003, and as if included therein as enacted, the  
5 National Defense Authorization Act for Fiscal Year 2004  
6 (Public Law 108–136) is amended as follows:

7 (1) Sections 832(a) and 834(a) (117 Stat.  
8 1550) are each amended by striking “such title” and  
9 inserting “title 10, United States Code,”

10 (2) Section 931(a)(1) (117 Stat. 1580) is  
11 amended by striking “and donations” in the first  
12 quoted matter and inserting “or donations”.

13 (3) Section 2204(b) (117 Stat. 1706) is amend-  
14 ed by striking “section 2101(a)” each place it ap-  
15 pears and inserting “section 2201(a)”.

16 (h) PUBLIC LAW 107–314.—Effective as of Decem-  
17 ber 2, 2002, and as if included therein as enacted, section  
18 1064(a)(2) of the Bob Stump National Defense Author-  
19 ization Act for Fiscal Year 2003 (Public Law 107–314;  
20 116 Stat. 2654) is amended by inserting “the item relat-  
21 ing to” after “is amended by inserting after”.

22 (i) PUBLIC LAW 101–510.—Section 2902(e)(2)(B) of  
23 the Defense Base Closure and Realignment Act of 1990  
24 (part A of title XXIX of Public Law 101–510; 10 U.S.C.  
25 2687 note) is amended—

1           (1) in clause (i), by striking “Subcommittee on  
2       Readiness, Sustainability, and Support” and insert-  
3       ing “Subcommittee on Readiness and Management  
4       Support”; and

5           (2) in clause (ii), by striking “Subcommittee on  
6       Military Installations and Facilities” and inserting  
7       “Subcommittee on Readiness”.

8       (j) NATIONAL SECURITY ACT OF 1947.—Sections  
9       702(a)(6)(B)(iv)(I),       703(a)(6)(B)(iv)(I),       and  
10       704(f)(2)(D)(i) of the National Security Act of 1947 are  
11       amended by striking “responsible records” and inserting  
12       “responsive records”.

13       (k) CODIFICATION RELATING TO LEAVE FOR AT-  
14       TENDANCE AT CERTAIN HEARINGS.—Subsection (b) of  
15       section 363 of the Personal Responsibility and Work Op-  
16       portunity Reconciliation Act of 1996 (10 U.S.C. 704 note)  
17       is—

18           (1) transferred to section 704 of title 10,  
19       United States Code;

20           (2) inserted at the end of that section;

21           (3) redesignated as subsection (c); and

22           (4) amended—

23                (A) by striking “Armed Forces” each place  
24       it appears and inserting “armed forces”;

25                (B) in paragraph (1)—

1 (i) by striking “Secretary of each”  
 2 and all that follows through “in the Navy,”  
 3 and inserting “Secretary concerned”; and

4 (ii) by striking “(as defined in section  
 5 101 of title 10, United States Code)”; and  
 6 (C) in paragraph (3)—

7 (i) by striking “For purposes of this  
 8 subsection—” and inserting “In this sub-  
 9 section:”;

10 (ii) in subparagraph (A), by striking  
 11 “title 10, United States Code” and insert-  
 12 ing “this title”; and

13 (iii) in subparagraph (B), by striking  
 14 “such term” and inserting “that term”.

15 **SEC. 1074. COMMISSION ON THE LONG-TERM IMPLEMENTA-**  
 16 **TION OF THE NEW STRATEGIC POSTURE OF**  
 17 **THE UNITED STATES.**

18 (a) ESTABLISHMENT OF COMMISSION.—

19 (1) ESTABLISHMENT.—There is hereby estab-  
 20 lished a commission to be known as the “Commis-  
 21 sion on the Long-Term Implementation of the New  
 22 Strategic Posture of the United States”. The Sec-  
 23 retary of Defense shall enter into a contract with a  
 24 federally funded research and development center to  
 25 provide for the organization, management, and sup-

1 port of the Commission. Such contract shall be en-  
2 tered into in consultation with the Secretary of En-  
3 ergy.

4 (2) COMPOSITION.—(A) The Commission shall  
5 be composed of 12 members who shall be appointed  
6 by the Secretary of Defense. In selecting individuals  
7 for appointment to the Commission, the Secretary of  
8 Defense shall consult with the chairman and ranking  
9 minority member of the Committee on Armed Serv-  
10 ices of the Senate and the chairman and ranking mi-  
11 nority member of the Committee on Armed Services  
12 of the House of Representatives.

13 (B) Members of the Commission shall be ap-  
14 pointed from among private United States citizens  
15 with knowledge and expertise in the political, mili-  
16 tary, operational, and technical aspects of nuclear  
17 strategy.

18 (3) CHAIRMAN OF THE COMMISSION.—The Sec-  
19 retary of Defense shall designate one of the mem-  
20 bers of the Commission to serve as chairman of the  
21 Commission.

22 (4) PERIOD OF APPOINTMENT; VACANCIES.—  
23 Members shall be appointed for the life of the Com-  
24 mission. Any vacancy in the Commission shall be

1 filled in the same manner as the original appoint-  
2 ment.

3 (5) SECURITY CLEARANCES.—All members of  
4 the Commission shall hold appropriate security  
5 clearances.

6 (b) DUTIES OF COMMISSION.—

7 (1) REVIEW OF LONG-TERM IMPLEMENTATION  
8 OF THE NUCLEAR POSTURE REVIEW.—The Com-  
9 mission shall examine long-term programmatic re-  
10 quirements to achieve the goals set forth in the re-  
11 port of the Secretary of Defense submitted to Con-  
12 gress on December 31, 2001, providing the results  
13 of the Nuclear Posture Review conducted pursuant  
14 to section 1041 of the Floyd D. Spence National De-  
15 fense Authorization Act for Fiscal Year 2001 (as en-  
16 acted into law by Public Law 106–398; 114 Stat.  
17 1654, 1654A–262) and results of periodic assess-  
18 ments of the Nuclear Posture Review. Matters ex-  
19 amined by the Commission shall include the fol-  
20 lowing:

21 (A) The process of establishing require-  
22 ments for strategic forces and how that process  
23 accommodates employment of nonnuclear strike  
24 platforms and munitions in a strategic role.

1           (B) How strategic intelligence, reconnais-  
2           sance, and surveillance requirements differ from  
3           nuclear intelligence, reconnaissance, and sur-  
4           veillance requirements.

5           (C) The ability of a limited number of  
6           strategic platforms to carry out a growing  
7           range of nonnuclear strategic strike missions.

8           (D) The limits of tactical systems to per-  
9           form nonnuclear global strategic missions in a  
10          prompt manner.

11          (E) An assessment of the ability of the  
12          current nuclear stockpile to address the evolving  
13          strategic threat environment through 2025.

14          (2) RECOMMENDATIONS.—The Commission  
15          shall include in its report recommendations with re-  
16          spect to the following:

17               (A) Changes to the requirements process  
18               to employ nonnuclear strike platforms and mu-  
19               nitions in a strategic role.

20               (B) Changes to the nuclear stockpile and  
21               infrastructure required to preserve a nuclear ca-  
22               pability commensurate with the changes to the  
23               strategic threat environment through 2025.

24               (C) Actions the Secretary of Defense and  
25               the Secretary of Energy can take to preserve

1 flexibility of the defense nuclear complexes while  
2 reducing the cost of a Cold War strategic infra-  
3 structure.

4 (D) Identify shortfalls in the strategic  
5 modernization programs of the United States  
6 that would undermine the ability of the United  
7 States to develop new nonnuclear strategic  
8 strike capabilities.

9 (3) COOPERATION FROM GOVERNMENT OFFI-  
10 CIALS.—(A) In carrying out its duties, the Commis-  
11 sion shall receive the full and timely cooperation of  
12 the Secretary of Defense, the Secretary of Energy,  
13 and any other United States Government official in  
14 providing the Commission with analyses, briefings,  
15 and other information necessary for the fulfillment  
16 of its responsibilities.

17 (B) The Secretary of Energy and the Secretary  
18 of Defense shall each designate at least one officer  
19 or employee of the Department of Energy and the  
20 Department of Defense, respectively, to serve as a li-  
21 aison officer between the department and the Com-  
22 mission.

23 (c) REPORTS.—

24 (1) COMMISSION REPORT.—The Commission  
25 shall submit to the Secretary of Defense and the



1 Committees on Armed Services of the Senate and  
2 House of Representatives a report on the Commis-  
3 sion's findings and conclusions. Such report shall be  
4 submitted not later than 28 months after the date of  
5 the first meeting of the Commission.

6 (2) SECRETARY OF DEFENSE RESPONSE.—Not  
7 later than one year after the date on which the Com-  
8 mission submits its report under paragraph (1), the  
9 Secretary of Defense shall submit to Congress a  
10 report—

11 (A) commenting on the Commission's find-  
12 ings and conclusions; and

13 (B) explaining what actions, if any, the  
14 Secretary intends to take to implement the rec-  
15 ommendations of the Commission and, with re-  
16 spect to each such recommendation, the Sec-  
17 retary's reasons for implementing, or not imple-  
18 menting, the recommendation.

19 (d) HEARINGS AND PROCEDURES.—

20 (1) HEARINGS.—The Commission may, for the  
21 purpose of carrying out the purposes of this section,  
22 hold hearings and take testimony.

23 (2) PROCEDURES.—The federally funded re-  
24 search and development center with which a contract  
25 is entered into under subsection (a)(1) shall be re-

1       sponsible for establishing appropriate procedures for  
2       the Commission.

3           (3) DETAIL OF GOVERNMENT EMPLOYEES.—

4       Upon request of the chairman of the Commission,  
5       the head of any Federal department or agency may  
6       detail, on a nonreimbursable basis, personnel of that  
7       department or agency to the Commission to assist it  
8       in carrying out its duties.

9       (e) FUNDING.—Funds for activities of the Commis-  
10      sion shall be provided from amounts appropriated for the  
11      Department of Defense.

12      (f) TERMINATION OF COMMISSION.—The Commis-  
13      sion shall terminate 60 days after the date of the submis-  
14      sion of its report under subsection (c)(1).

15      (g) IMPLEMENTATION.—

16           (1) FFRDC CONTRACT.—The Secretary of De-  
17      fense shall enter into the contract required under  
18      subsection (a)(1) not later than 60 days after the  
19      date of the enactment of this Act.

20           (2) FIRST MEETING.—The Commission shall  
21      convene its first meeting not later than 60 days  
22      after the date as of which all members of the Com-  
23      mission have been appointed.

1 **SEC. 1075. LIABILITY PROTECTION FOR CERTAIN DEPART-**  
2 **MENT OF DEFENSE VOLUNTEERS WORKING**  
3 **IN THE MARITIME ENVIRONMENT.**

4 (a) **AUTHORITY TO ACCEPT CERTAIN VOLUNTEER**  
5 **SERVICES.**—Subsection (a) of section 1588 of title 10,  
6 United States Code, is amended by adding at the end the  
7 following new paragraph:

8 “(8) Voluntary services provided to the United  
9 States Military Academy, United States Naval Acad-  
10 emy, and United States Air Force Academy for the  
11 training of cadets and midshipmen.”.

12 (b) **LIABILITY PROTECTION FOR VOLUNTEERS IN**  
13 **MARITIME ENVIRONMENT.**—Subparagraph (D) of sub-  
14 section (d)(1) of such section is amended—

15 (1) by striking “and” after “this title” and in-  
16 serting a comma; and

17 (2) by inserting before the period at the end the  
18 following: “, and chapters 20 and 22 of title 46 (re-  
19 lating to claims for damages or loss on navigable wa-  
20 ters)”.

21 **SEC. 1076. TRANSFER OF HISTORIC F3A-1 BREWSTER COR-**  
22 **SAIR AIRCRAFT.**

23 (a) **AUTHORITY TO CONVEY.**—The Secretary of the  
24 Navy may convey, without consideration, to Lex Cralley,  
25 of Princeton Minnesota (in this section referred to as  
26 “transferee”), all right, title and interest of the United

1 States in and to a F3A-1 Brewster Corsair aircraft (Bu-  
2 reau Number 04634). The conveyance shall be made by  
3 means of a deed of gift.

4 (b) CONDITION OF AIRCRAFT.—The aircraft shall be  
5 conveyed under subsection (a) in its current unflyable, “as  
6 is” condition. The Secretary is not required to repair or  
7 alter the condition of the aircraft before conveying owner-  
8 ship of the aircraft.

9 (c) CONVEYANCE AT NO COST TO THE UNITED  
10 STATES.—The conveyance of the aircraft under subsection  
11 (a) shall be made at no cost to the United States. Any  
12 costs associated with the conveyance and costs of oper-  
13 ation and maintenance of the aircraft conveyed shall be  
14 borne by the transferee.

15 (d) ADDITIONAL TERMS AND CONDITIONS.—The  
16 Secretary may require such additional terms and condi-  
17 tions in connection with a conveyance under this section  
18 as the Secretary considers appropriate to protect the inter-  
19 ests of the United States.

20 **SEC. 1077. ASSIGNMENT OF MEMBERS TO ASSIST BUREAU**  
21 **OF BORDER SECURITY AND BUREAU OF CITI-**  
22 **ZENSHIP AND IMMIGRATION SERVICES OF**  
23 **THE DEPARTMENT OF HOMELAND SECURITY.**

24 (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-  
25 FENSE.—Chapter 18 of title 10, United States Code, is

1 amended by inserting after section 374 the following new  
2 section:

3 **“§ 374a. Assignment of members to assist border pa-**  
4 **trol and control**

5 “(a) ASSIGNMENT AUTHORIZED.—Upon submission  
6 of a request consistent with subsection (b), the Secretary  
7 of Defense may assign members of the Army, Navy, Air  
8 Force, and Marine Corps to assist—

9 “(1) the Bureau of Border Security of the De-  
10 partment of Homeland Security in preventing the  
11 entry of terrorists, drug traffickers, and illegal aliens  
12 into the United States; and

13 “(2) the United States Customs Service of the  
14 Department of Homeland Security in the inspection  
15 of cargo, vehicles, and aircraft at points of entry  
16 into the United States to prevent the entry of weap-  
17 ons of mass destruction, components of weapons of  
18 mass destruction, prohibited narcotics or drugs, or  
19 other terrorist or drug trafficking items.

20 “(b) REQUEST FOR ASSIGNMENT.—The assignment  
21 of members under subsection (a) may occur only if—

22 “(1) the assignment is at the request of the  
23 Secretary of Homeland Security; and

24 “(2) the request is accompanied by a certifi-  
25 cation by the Secretary of Homeland Security that

1       the assignment of members pursuant to the request  
2       is necessary to respond to a threat to national secu-  
3       rity posed by the entry into the United States of ter-  
4       rorists, drug traffickers, or illegal aliens.

5       “(c) TRAINING PROGRAM REQUIRED.—The Sec-  
6       retary of Homeland Security and the Secretary of De-  
7       fense, shall establish a training program to ensure that  
8       members receive general instruction regarding issues af-  
9       fecting law enforcement in the border areas in which the  
10      members may perform duties under an assignment under  
11      subsection (a). A member may not be deployed at a border  
12      location pursuant to an assignment under subsection (a)  
13      until the member has successfully completed the training  
14      program.

15      “(d) CONDITIONS OF USE.—(1) Whenever a member  
16      who is assigned under subsection (a) to assist the Bureau  
17      of Border Security or the United States Customs Service  
18      is performing duties at a border location pursuant to the  
19      assignment, a civilian law enforcement officer from the  
20      agency concerned shall accompany the member.

21      “(2) Nothing in this section shall be construed to—

22              “(A) authorize a member assigned under sub-  
23      section (a) to conduct a search, seizure, or other  
24      similar law enforcement activity or to make an ar-  
25      rest; and

1           “(B) supersede section 1385 of title 18 (popu-  
2           larly known as the ‘Posse Comitatus Act’).

3           “(e) ESTABLISHMENT OF ONGOING JOINT TASK  
4 FORCES.—(1) The Secretary of Homeland Security may  
5 establish ongoing joint task forces if the Secretary of  
6 Homeland Security determines that the joint task force,  
7 and the assignment of members to the joint task force,  
8 is necessary to respond to a threat to national security  
9 posed by the entry into the United States of terrorists,  
10 drug traffickers, or illegal aliens.

11          “(2) If established, the joint task force shall fully  
12 comply with the standards as set forth in this section.

13          “(f) NOTIFICATION REQUIREMENTS.—The Secretary  
14 of Homeland Security shall provide to the Governor of the  
15 State in which members are to be deployed pursuant to  
16 an assignment under subsection (a) and to local govern-  
17 ments in the deployment area notification of the deploy-  
18 ment of the members to assist the Department of Home-  
19 land Security under this section and the types of tasks  
20 to be performed by the members.

21          “(g) REIMBURSEMENT REQUIREMENT.—Section 377  
22 of this title shall apply in the case of members assigned  
23 under subsection (a).

1       “(h) **TERMINATION OF AUTHORITY.**—No assignment  
2 may be made or continued under subsection (a) after Sep-  
3 tember 30, 2006.”.

4       (b) **COMMENCEMENT OF TRAINING PROGRAM.**—The  
5 training program required by subsection (c) of section  
6 374a of title 10, United States Code, as added by sub-  
7 section (a), shall be established as soon as practicable  
8 after the date of the enactment of this Act.

9       (c) **CLERICAL AMENDMENT.**—The table of sections  
10 at the beginning of such chapter is amended by inserting  
11 after the item relating to section 374 the following new  
12 item:

“374a. Assignment of members to assist border patrol and control.”.

13   **SEC. 1078. AUTHORITY TO ACCEPT CERTAIN VOLUNTARY**  
14                           **SERVICES.**

15       Section 1588 of title 10, United States Code, is  
16 amended—

17           (1) in subsection (a), by adding at the end the  
18 following new paragraph:

19           “(8) Voluntary services to support programs of  
20 a committee of the Employer Support of the Guard  
21 and Reserve as authorized by the Secretary of De-  
22 fense.”; and

23           (2) in subsection (f)(1), by inserting “and  
24 (a)(8)” before the period at the end.



1 **SEC. 1079. TRANSFER OF EXCESS DEPARTMENT OF DE-**  
2 **FENSE PERSONAL PROPERTY SUITABLE FOR**  
3 **FIREFIGHTING USE TO SUPPORT FEDERAL**  
4 **EXCESS PERSONAL PROPERTY PROGRAM.**

5 (a) IN GENERAL.—Section 2576b of title 10, United  
6 States Code, is amended—

7 (1) in subsection (a)—

8 (A) by striking “Subject” and inserting  
9 “Notwithstanding any other provision of law  
10 and subject”; and

11 (B) by striking “a firefighting agency in a  
12 State” and inserting “the United States Forest  
13 Service”;

14 (2) in subsections (b)(2) and (c), by striking  
15 “recipient firefighting agency” and inserting “Forest  
16 Service”; and

17 (3) by striking subsection (d) and inserting the  
18 following new subsections:

19 “(d) PRIORITY FOR RURAL FIREFIGHTING AGEN-  
20 CIES.—(1) Subject to paragraph (2), the Secretary of De-  
21 fense shall enter into an agreement with the Secretary of  
22 Agriculture to use the existing property disposal program  
23 of the Forest Service, known as the Federal Excess Per-  
24 sonal Property Program, to facilitate the reutilization of  
25 Department of Defense personal property described in  
26 subsection (a) by firefighting agencies in rural areas.

1       “(2) An agreement under paragraph (1) shall not  
2 provide for the reutilization of Department of Defense air-  
3 craft by the Forest Service until the end of the one-year  
4 period beginning on the date on which the Secretary of  
5 Agriculture submits a report to the Committee on Agri-  
6 culture and the Committee on Armed Services of the  
7 House of Representatives and the Committee on Agri-  
8 culture, Nutrition, and Forestry and the Committee on  
9 Armed Services of the Senate detailing measures taken by  
10 the Forest Service in response to National Transportation  
11 Safety Board Recommendations A-04-29 through A-04-  
12 33.

13       “(3) The transfer of Department of Defense personal  
14 property described in subsection (a) to the Forest Service  
15 for reutilization by firefighting agencies in rural areas  
16 shall be afforded a property disposal priority at least equal  
17 to the priority given the military departments and other  
18 entities within the Department of Defense.

19       “(e) DEFINITION OF STATE.—The term ‘State’ in-  
20 cludes the District of Columbia, the Commonwealth of  
21 Puerto Rico, the Commonwealth of the Northern Mariana  
22 Islands, and any territory or possession of the United  
23 States.”.

24       (b) CLERICAL AMENDMENTS.—(1) The heading of  
25 such section is amended to read as follows:

1 **“§ 2576b. Excess personal property: reutilization to**  
 2 **assist firefighting agencies”.**

3 (2) The table of sections at the beginning of chapter  
 4 153 of such title is amended by striking the item relating  
 5 to section 2576b and inserting the following new item:

“2576b. Excess personal property: reutilization to assist firefighting agencies.”.

6 **SEC. 1080. EXPANSION OF DEPARTMENT OF DEFENSE EX-**  
 7 **CESS PERSONAL PROPERTY DISPOSAL PRO-**  
 8 **GRAM TO INCLUDE HEALTH AGENCIES.**

9 (a) INCLUSION OF HEALTH AGENCIES.—Section  
 10 2576b of title 10, United States Code, is amended by add-  
 11 ing at the end the following new subsection:

12 “(e) TRANSFER TO STATE HEALTH AGENCIES.—The  
 13 Secretary of Defense may expand the program authorized  
 14 by this section to include the transfer to State health  
 15 agencies of personal property of the Department of De-  
 16 fense that the Secretary determines is—

17 “(1) excess to the needs of the Department of  
 18 Defense; and

19 “(2) suitable for use in responding to health or  
 20 environmental emergencies.”.

21 (b) CLERICAL AMENDMENTS.—(1) The heading of  
 22 such section is amended to read as follows:

1 **“§ 2576b. Excess personal property: reutilization to**  
 2 **assist firefighting agencies and health**  
 3 **agencies**

4 (2) The table of sections at the beginning of chapter  
 5 153 of such title is amended by striking the item relating  
 6 to section 2576b and inserting the following new item:

“2576b. Excess personal property: reutilization to assist firefighting agencies  
 and health agencies.”.

7 **SEC. 1081. PLACEMENT OF MEMORIAL IN ARLINGTON NA-**  
 8 **TIONAL CEMETERY HONORING NONCITIZENS**  
 9 **KILLED IN THE LINE OF DUTY WHILE SERV-**  
 10 **ING IN THE ARMED FORCES OF THE UNITED**  
 11 **STATES.**

12 (a) IN GENERAL.—The Secretary of the Army shall  
 13 place in Arlington National Cemetery a memorial marker  
 14 honoring the service and sacrifice of noncitizens killed in  
 15 the line of duty while serving in the Armed Forces of the  
 16 United States.

17 (b) APPROVAL OF DESIGN AND SITE.—The Secretary  
 18 of the Army, in consultation with Secretary of Veterans  
 19 Affairs, shall approve an appropriate design and site with-  
 20 in Arlington National Cemetery for the memorial marker  
 21 provided for under subsection (a).

22 (c) USE OF FEDERAL FUNDS.—Federal funds shall  
 23 not be required or permitted to be used for the design

1 and construction of the memorial marker provided for  
2 under subsection (a).

3 (d) **AUTHORITY TO ACCEPT DONATIONS.**—(1) The  
4 Secretary of the Army may accept gifts and donations of  
5 services, money, and property (including personal, tan-  
6 gible, or intangible property) for the design and construc-  
7 tion of the memorial marker provided for under subsection  
8 (a).

9 (2) The authority of the Secretary of the Army to  
10 accept gifts and donations under paragraph (1) shall ex-  
11 pire on the date that is five years after the date of the  
12 enactment of this Act.

## 13 **TITLE XI—DEPARTMENT OF** 14 **DEFENSE CIVILIAN PERSONNEL**

### 15 **SEC. 1101. PAYMENT OF FEDERAL EMPLOYEE HEALTH BEN-** 16 **EFIT PREMIUMS FOR MOBILIZED FEDERAL** 17 **EMPLOYEES.**

18 (a) **AUTHORITY TO CONTINUE BENEFIT COV-**  
19 **ERAGE.**—Section 8905a of title 5, United States Code is  
20 amended—

21 (1) in subsection (a), by striking “paragraph  
22 (1) or (2) of”;

23 (2) in subsection (b)—

24 (A) in paragraph (1)(B), by striking “and”  
25 at the end;

1 (B) in paragraph (2)(C), by striking the  
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following new  
4 paragraph:

5 “(3) any employee who—

6 “(A) is enrolled in a health benefits plan  
7 under this chapter;

8 “(B) is a member of a Reserve component  
9 of the armed forces;

10 “(C) is called or ordered to active duty in  
11 support of a contingency operation (as defined  
12 in section 101(a)(13) of title 10);

13 “(D) is placed on leave without pay or sep-  
14 arated from service to perform active duty; and

15 “(E) serves on active duty for a period of  
16 more than 30 consecutive days.”; and

17 (4) in subsection (e)(1)—

18 (A) in subparagraph (A), by striking “or”  
19 at the end;

20 (B) in subparagraph (B), by striking the  
21 period at the end and inserting “; or”; and

22 (C) by adding at the end the following new  
23 subparagraph:

24 “(C) in the case of an employee described  
25 in subsection (b)(3), the date which is 24

1 months after the employee is placed on leave  
2 without pay or separated from service to per-  
3 form active duty.”.

4 (b) **AUTHORITY FOR AGENCIES TO PAY PRE-**  
5 **MIUMS.**—Subparagraph (C) of section 8906(e)(3) of such  
6 title is amended by striking “18 months” and inserting  
7 “24 months”.

8 (c) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply with respect to Federal employees  
10 called or ordered to active duty on or after September 14,  
11 2001.

12 **SEC. 1102. FOREIGN LANGUAGE PROFICIENCY PAY.**

13 Section 1596a of title 10, United States Code, is  
14 amended—

15 (1) in subsection (a)(2), by striking “during a  
16 contingency operation supported by the armed  
17 forces”; and

18 (2) in subsection (c), by inserting before the pe-  
19 riod at the end the following: “and shall not be con-  
20 sidered base pay for any purpose”.

21 **SEC. 1103. PAY PARITY FOR CIVILIAN INTELLIGENCE PER-**  
22 **SONNEL.**

23 Section 1602 of title 10, United States Code, is  
24 amended—

1           (1) in subsection (a), by striking “in relation to  
2       the rates of pay provided in subpart D of part III  
3       of title 5 for positions subject to that subpart which  
4       have corresponding levels of duties and responsibil-  
5       ities” and inserting “in relation to the rates of pay  
6       provided for Department of Defense Senior Execu-  
7       tive, Senior Level, and other comparable positions”;  
8       and

9           (2) by amending subsection (b) to read as fol-  
10      lows:

11      “(b) PERFORMANCE APPRAISAL SYSTEM.—The posi-  
12      tions referred to in subsection (a) shall be subject to a  
13      performance appraisal system which, as designed and ap-  
14      plied, is certified by the Secretary of Defense as making  
15      meaningful distinctions based on relative performance and  
16      may be the same performance appraisal system estab-  
17      lished and implemented within the Department for mem-  
18      bers of the Senior Executive Service.”.

19      **SEC. 1104. PAY PARITY FOR SENIOR EXECUTIVES IN NON-**  
20                                   **APPROPRIATED FUND INSTRUMENTALITIES.**

21      (a) IN GENERAL.—Chapter 81 of title 10, United  
22      States Code, is amended by adding at the end the fol-  
23      lowing new section:



1 **“§ 1599e. Senior executive compensation for non-**  
 2 **appropriated fund instrumentalities**

3 “Notwithstanding any provisions of title 5, the Sec-  
 4 retary of Defense may regulate the amount of total com-  
 5 pensation, including the rate of basic pay, of senior execu-  
 6 tives employed by Department of Defense nonappropriated  
 7 fund instrumentalities, to provide for parity with the total  
 8 compensation, including basic pay, of Department of De-  
 9 fense employees in the Senior Executive Service and other  
 10 similar senior executive positions.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
 12 at the beginning of such chapter is amended by inserting  
 13 after the item relating to section 1599d the following new  
 14 item:

“1599e. Senior executive compensation for nonappropriated fund instrumental-  
 ities.”.

15 **SEC. 1105. PROHIBITION OF UNAUTHORIZED WEARING OR**  
 16 **USE OF CIVILIAN MEDALS OR DECORATIONS.**

17 Chapter 57 of title 10, United States Code, is amend-  
 18 ed by adding at the end the following new section:

19 **“§ 1134. Civilian medals or decorations of the Depart-**  
 20 **ment of Defense**

21 “(a) PROHIBITION.—Except with the written permis-  
 22 sion of the Secretary of Defense or when authorized by  
 23 regulations, no person may knowingly—

24 “(1) wear; or

1           “(2) use, in connection with any merchandise,  
2       retail product, impersonation, solicitation, or com-  
3       mercial activity;  
4       medals, decorations, or other insignia awarded by the Sec-  
5       retary of Defense to recognize Department of Defense ci-  
6       vilian employees and other individuals who render service  
7       to the Department of Defense.

8       “(b) AUTHORITY TO ENJOIN VIOLATIONS.—When-  
9       ever it appears to the Attorney General that any person  
10      is engaged or is about to engage in an act or practice  
11      which constitutes or will constitute conduct prohibited by  
12      subsection (a), the Attorney General may initiate a civil  
13      proceeding in a district court of the United States to en-  
14      join such act or practice. Such court shall proceed as soon  
15      as practicable to the hearing and determination of such  
16      action and may, at any time before final determination,  
17      enter such restraining orders or prohibitions, or take such  
18      other actions as is warranted, including imposing a civil  
19      penalty not to exceed \$25,000 for each violation, to pre-  
20      vent injury to the United States or to any person or class  
21      of persons for whose protection the action is brought.”.

22      (b) CLERICAL AMENDMENT.—The table of sections  
23      at the beginning of such chapter is amended by adding  
24      at the end the following new item:

“1134. Civilian medals or decorations of the Department of Defense.”

1 **TITLE XII—MATTERS RELATING**  
2 **TO OTHER NATIONS**  
3 **Subtitle A—Matters Relating to**  
4 **Iraq, Afghanistan, and Global**  
5 **War on Terrorism**

6 **SEC. 1201. DOCUMENTATION OF CONDITIONS IN IRAQ**  
7 **UNDER FORMER DICTATORIAL GOVERNMENT**  
8 **AS PART OF TRANSITION TO POST-DICTATO-**  
9 **RIAL GOVERNMENT.**

10 (a) FINDINGS.—The Congress makes the following  
11 findings:

12 (1) The regime of Saddam Hussein in Iraq was  
13 a dictatorial regime prone to secrecy in the mainte-  
14 nance of its hold on power.

15 (2) The people of Iraq all suffered as a result  
16 of Saddam Hussein's dictatorial control.

17 (3) Efforts in other post-dictatorial states to  
18 document the crimes and abuses of their predecessor  
19 dictatorial governments have contributed to the  
20 process of national reconciliation and have served as  
21 a reminder about the importance of protecting indi-  
22 vidual rights.

23 (b) TRANSFER OF CERTAIN DOCUMENTS AND  
24 RECORDS.—The Secretary of Defense shall, to the extent  
25 practicable, establish a process for expeditiously transfer-

1 ring to indigenous Iraqi entities committed to docu-  
2 menting publicly the nature of the Saddam Hussein re-  
3 gime any documents and records described in subsection  
4 (c) that are obtained by United States military forces in  
5 Iraq.

6 (c) COVERED DOCUMENTS AND RECORDS.—The doc-  
7 uments and records referred to in subsection (b) are docu-  
8 ments and records—

9 (1) that were created by—

10 (A) the Government of Iraq between 1968  
11 and May 1, 2003; or

12 (B) the Ba’ath Socialist Party in Iraq  
13 after 1968; and

14 (2) that provide insight into—

15 (A) the functioning of the Government of  
16 Iraq or the Ba’ath Socialist Party in Iraq; or

17 (B) the crimes, atrocities, and brutal prac-  
18 tices of the Iraqi government towards the peo-  
19 ple of Iraq during the period between 1968 and  
20 May 1, 2003.

21 **SEC. 1202. SUPPORT OF MILITARY OPERATIONS TO COM-**  
22 **BAT TERRORISM.**

23 (a) AUTHORITY.—The Secretary of Defense may ex-  
24 pend up to \$25,000,000 during any fiscal year during  
25 which this subsection is in effect to provide support to for-

1 eign forces, irregular forces, groups, or individuals en-  
2 gaged in supporting or facilitating ongoing military oper-  
3 ations by United States special operations forces to com-  
4 bat terrorism.

5 (b) INTELLIGENCE ACTIVITIES.—This section does  
6 not constitute authority to conduct a covert action, as such  
7 term is defined in section 503(e) of the National Security  
8 Act of 1947 (50 U.S.C. 413b(e)).

9 (c) ANNUAL REPORT.—Not later than 30 days after  
10 the close of each fiscal year during which subsection (a)  
11 is in effect, the Secretary of Defense shall submit to the  
12 congressional defense committees a report on support pro-  
13 vided under this section during that fiscal year. Each such  
14 report shall describe the support provided, including a  
15 statement of the recipient of the support and the amount  
16 obligated to provide the support.

17 (d) FISCAL YEAR 2005 LIMITATION.—Support may  
18 be provided under subsection (a) during fiscal year 2005  
19 only from funds made available for operations and mainte-  
20 nance pursuant to title XV of this Act.

21 (e) PERIOD OF AUTHORITY.—The authority under  
22 subsection (a) is in effect during each of fiscal years 2005  
23 through 2007.

1 **SEC. 1203. COMMANDERS' EMERGENCY RESPONSE PRO-**  
2 **GRAM.**

3 (a) FISCAL YEAR 2005 AUTHORITY.—During fiscal  
4 year 2005, from funds made available to the Department  
5 of Defense for operation and maintenance pursuant to  
6 title XV of this Act, not to exceed \$300,000,000 may be  
7 used, notwithstanding any other provision of law, to pro-  
8 vide funds for the Commanders' Emergency Response  
9 Program, established by the Administrator of the Coali-  
10 tion Provisional Authority for the purpose of enabling  
11 military commanders in Iraq to respond to urgent humani-  
12 tarian relief and reconstruction requirements within their  
13 areas of responsibility by carrying out programs that will  
14 immediately assist the Iraqi people, and to provide funds  
15 for a similar program to assist the people of Afghanistan.

16 (b) QUARTERLY REPORTS.—The Secretary of De-  
17 fense shall submit to the congressional defense committees  
18 a quarterly report, beginning on January 15, 2005, re-  
19 garding the source of funds and the allocation and use  
20 of funds made available pursuant to the authority provided  
21 in this section.

22 **SEC. 1204. STATUS OF IRAQI SECURITY FORCES.**

23 (a) STRATEGIC PLAN.—No later than 120 days after  
24 the date of the enactment of this Act, the Secretary of  
25 Defense shall submit to the Committees on Armed Serv-  
26 ices of the Senate and House of Representatives a stra-

1 tegic plan setting forth the manner in which the United  
2 States will achieve the goal of establishing viable and pro-  
3 fessional Iraqi security forces able to provide for the long-  
4 term security of the Iraqi people.

5 (b) COMPONENTS.—The strategic plan established  
6 under subsection (a) shall include at least the following:

7 (1) Recruiting and retention goals, shown for  
8 each service of the Iraqi security forces.

9 (2) Training plans for each service of the Iraqi  
10 security forces.

11 (3) A description of metrics by which progress  
12 toward the goal of Iraqi provision for its own secu-  
13 rity can be measured.

14 (4) A description of equipment needs, shown for  
15 each service of the Iraqi security forces.

16 (5) A resourcing plan for achieving the goals of  
17 the strategic plan.

18 (6) Personnel plans in terms of United States  
19 military and contractor personnel to be used in  
20 training each such service.

21 (7) A description of challenges faced and oppor-  
22 tunities presented in particular regions of Iraq and  
23 a plan for addressing those challenges.

24 (8) A discussion of training and deployment  
25 successes and failures to the date of the report and

1       how lessons from those successes and failures will be  
2       incorporated into the strategic plan.

3       (c) SUBSEQUENT REPORTS.—Ninety days following  
4 the submission of the strategic plan to Congress under  
5 subsection (a) and every 90 days thereafter, the Secretary  
6 shall submit to the Committees on Armed Services of the  
7 Senate and House of Representatives a report on progress  
8 toward meeting the goals established in the strategic plan.  
9 Each such report shall address the following:

10           (1) The number of forces recruited, currently  
11       serving, and that have left (along with a break-down  
12       of the reasons for leaving) by service over the period  
13       in question.

14           (2) Progress in meeting training goals.

15           (3) Progress in achieving other metrics as iden-  
16       tified in the strategic plan.

17           (4) A description and analysis of any training  
18       incidents and deployment successes and failures,  
19       with a discussion of how those incidents and suc-  
20       cesses will affect future efforts to achieve the goals  
21       of the strategic plan.

22       (d) IRAQI SECURITY FORCES DEFINED.—In this sec-  
23 tion, the term “Iraqi security forces” means the Iraqi  
24 Armed Forces (IAF), the Iraqi Civil Defense Corps  
25 (ICDC), the Iraqi Police Service (IPS), the Department



1 of Border Enforcement (DBE), and the Facilities Protec-  
2 tion Services (FCS).

3 **SEC. 1205. GUIDANCE AND REPORT REQUIRED ON CON-**  
4 **TRACTORS SUPPORTING DEPLOYED FORCES**  
5 **IN IRAQ.**

6 (a) GUIDANCE.—Not later than 90 days after the  
7 date of the enactment of this Act, the Secretary of Defense  
8 shall issue guidance on how to manage contractors that  
9 support deployed forces and shall direct the Secretaries  
10 of the military departments to develop procedures to en-  
11 sure implementation of the guidance. The guidance  
12 shall—

13 (1) establish policies for the use of contractors  
14 to support deployed forces;

15 (2) delineate the roles and responsibilities of  
16 commanders regarding the management and over-  
17 sight of contractors that support deployed forces;  
18 and

19 (3) integrate into a single document other guid-  
20 ance and doctrine that may affect Department of  
21 Defense responsibilities to contractors in locations  
22 where members of the Armed Forces are deployed.

23 (b) REPORT.—Not later than 30 days after issuing  
24 the guidance required under subsection (a), the Secretary  
25 of Defense shall submit to the Committees on Armed Serv-

1 ices of the House of Representatives and the Senate a re-  
2 port containing a discussion of the following:

3 (1) A description of the process used by the De-  
4 partment of Defense for deciding which security  
5 functions in Iraq will be performed by military per-  
6 sonnel and which by private security companies.

7 (2) A discussion of the overall chain of com-  
8 mand and oversight mechanisms that are in place to  
9 ensure adequate command and supervision of con-  
10 tractor personnel in critical security roles.

11 (3) An explanation of the rules of engagement  
12 for private security personnel throughout Iraq, along  
13 with how training in these rules of engagement is  
14 being carried out.

15 (4) A description of mechanisms that exist or  
16 that are under consideration to share intelligence  
17 and standardize communications procedures among  
18 private security companies.

19 (5) Casualty and fatality figures for each con-  
20 tractor in Iraq supporting deployed forces over the  
21 period beginning on May 1, 2003, and ending on the  
22 date of the issuance of the guidance.

23 (6) Disciplinary or criminal actions brought  
24 against such contractors during the period covered  
25 by the report.

1           (7) Any incidents of note in Iraq regarding  
2           such contractors during the period covered by the  
3           report.

4           (8) A plan for establishing and implementing a  
5           process for collecting data on individual contractors,  
6           the value of the contracts, and the number of per-  
7           sonnel in Iraq performing the following services:

8                   (A) Personal security details.

9                   (B) Non-military site security.

10                  (C) Non-military convoy security.

11                  (D) Interrogation services at interrogation  
12           centers operated by the Department of Defense.

13 **SEC. 1206. FINDINGS AND SENSE OF CONGRESS CON-**  
14 **CERNING ARMY SPECIALIST JOSEPH DARBY.**

15           (a) FINDINGS.—Congress makes the following find-  
16           ings:

17                   (1) The need to act in accord with one's con-  
18           science, risking one's career and even the esteem of  
19           one's colleagues by pursuing what is right is espe-  
20           cially important today.

21                   (2) While the Department of Defense inves-  
22           tigate the horrific abuses in American detention fa-  
23           cilities in Iraq, the Nation should bear in mind that  
24           the abuses were only brought to light because of the  
25           courage of an American soldier.

1           (3) By alerting his superiors to abuses at Abu  
2       Ghraib prison in Iraq, Army Specialist Joseph  
3       Darby demonstrated the courage to speak out and  
4       do what is right for his country.

5           (4) Such an action is especially important in  
6       light of the many challenges facing the country.

7           (5) Specialist Darby deserves the Nation's  
8       thanks for speaking up and for standing up for what  
9       is right.

10       (b) SENSE OF CONGRESS.—It is the sense of Con-  
11   gress that—

12           (1) the Secretary of Defense should make every  
13       protection available to Army Specialist Joseph  
14       Darby and others who demonstrate such courage;  
15       and

16           (2) Specialist Darby should be commended ap-  
17       propriately by the Secretary of the Army.

18   **SEC. 1207. SENSE OF CONGRESS CONCERNING THE ABUSE**  
19                           **OF PERSONS IN CUSTODY IN IRAQ.**

20       It is the sense of Congress that—

21           (1) the abuses inflicted upon detainees at the  
22       Abu Ghraib prison in Baghdad, Iraq, are offensive  
23       to the principles and values of the American people  
24       and the United States military, are incompatible  
25       with the professionalism, dedication, standards and

1 training required of individuals who serve in the  
2 United States military, and contradict the policies,  
3 orders, and laws of the United States and the  
4 United States military and undermine the ability of  
5 the United States military to achieve its mission in  
6 Iraq.

7 (2) the vast majority of members of the Armed  
8 Forces have upheld the highest possible standards of  
9 professionalism and morality in the face of illegal  
10 tactics and terrorist attacks and attempts on their  
11 lives.

12 (3) the abuse of persons in United States cus-  
13 tody in Iraq is appropriately condemned and de-  
14 plored by the American people;

15 (4) the Armed Forces are moving swiftly and  
16 decisively to identify, try, and punish persons who  
17 were responsible or culpable for such abuse;

18 (5) the Secretary of the Army must continue to  
19 conduct a full and thorough investigation into any  
20 and all allegations of mistreatment or abuse of de-  
21 tainees in Iraq;

22 (6) the Secretary of the Army and appropriate  
23 military authorities must continue to undertake cor-  
24 rective action to address chain of command defi-

1       ciencies and the systemic deficiencies identified in  
2       the incidents in question;

3           (7) the American principle and tradition of af-  
4       fording proper and humane treatment to persons  
5       under the custody of the United States Armed  
6       Forces must be reaffirmed;

7           (8) the alleged crimes of a handful of individ-  
8       uals should not detract from the commendable sac-  
9       rifices of over 300,000 members of the United  
10      States Armed Forces who have served, or who are  
11      serving, in Operation Iraqi Freedom; and

12          (9) the United States expresses its continuing  
13      solidarity and support for its partnership with the  
14      Iraqi people in building a viable Iraqi government  
15      and a secure nation.

16 **SEC. 1208. SENSE OF CONGRESS REGARDING LIMITATION**  
17 **ON USE OF FUNDS FOR THE RECONSTRUC-**  
18 **TION OF IRAQ.**

19      It is the sense of Congress that no funds available  
20      to any department or agency of the United States Govern-  
21      ment may be used to provide assistance for the reconstruc-  
22      tion of Iraq unless the President certifies to Congress that  
23      the United States Government has entered into an agree-  
24      ment with the Iraqi Governing Council or a transitional  
25      government in Iraq under which Iraq agrees that it will

1 expend a significant portion of its revenues generated from  
2 oil production for reconstruction activities in Iraq.

3 **SEC. 1209. SENSE OF CONGRESS ON DESTRUCTION OF ABU**  
4 **GHRAIB PRISON IN IRAQ.**

5 (a) FINDINGS.—Congress makes the following find-  
6 ings:

7 (1) Under the regime of Saddam Hussein, the  
8 Abu Ghraib prison in Iraq was one of the world's  
9 most notorious prisons.

10 (2) Under that regime, as many as 50,000 men  
11 and women were jammed into the prison at one time  
12 in 12 feet by 12 feet cells.

13 (3) Under that regime, many people were tor-  
14 tured and executed in the Abu Ghraib prison.

15 (4) Recent activities have further highlighted  
16 the horrible memories that Abu Ghraib stands for.

17 (b) SENSE OF CONGRESS.—It is the sense of the  
18 Congress that the Secretary of Defense should assist the  
19 Iraqi Government, with the approval of that government,  
20 in destroying the Abu Ghraib prison and replacing it with  
21 a modern detention facility.

## **Subtitle B—Other Matters**

### **SEC. 1211. ASSIGNMENT OF ALLIED NAVAL PERSONNEL TO SUBMARINE SAFETY PROGRAMS.**

(a) IN GENERAL.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

#### **“§ 7234. Submarine safety programs: participation of allied naval personnel**

“(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization and Australia, Japan, the Republic of Korea, and Sweden may be assigned to United States commands to work on such systems and procedures.

“(b) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

“(A) Salary.

“(B) Per diem.

“(C) Cost of living.



1           “(D) Travel costs.

2           “(E) Cost of language or other training.

3           “(F) Other costs.

4           “(2) Paragraph (1) does not apply to the following  
5 costs, which may be paid by the United States:

6           “(A) The cost of temporary duty directed by  
7 the United States Navy.

8           “(B) The cost of training programs conducted  
9 to familiarize, orient, or certify members of foreign  
10 naval services regarding unique aspects of their as-  
11 signments.

12           “(C) Costs incident to the use of the facilities  
13 of the United States Navy in the performance of as-  
14 signed duties.

15           “(d) APPLICABILITY TO AUTHORITY TO ENTER INTO  
16 AGREEMENTS.—The requirements of this section shall  
17 apply in the exercise of any authority of the Secretary of  
18 the Navy to enter into an agreement with the government  
19 of a foreign country, subject to the concurrence of the Sec-  
20 retary of State, to provide for the assignment of members  
21 of the naval service of the foreign country to a United  
22 States Navy submarine safety program.

23           “(e) REGULATIONS.—The Secretary of the Navy may  
24 prescribe regulations for the application of this section in  
25 the exercise of authority referred to in subsection (d).”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of such chapter is amended by adding  
3 at the end the following new item:

“7234. Submarine safety programs: participation of allied naval personnel.”.

4 **SEC. 1212. EXPANSION OF ENTITIES OF THE PEOPLE’S RE-**  
5 **PUBLIC OF CHINA SUBJECT TO CERTAIN**  
6 **PRESIDENTIAL AUTHORITIES WHEN OPER-**  
7 **ATING IN THE UNITED STATES.**

8 Section 1237(b)(4)(B)(i) of the Strom Thurmond  
9 National Defense Authorization Act for Fiscal Year 1999  
10 (50 U.S.C. 1701 note) is amended by inserting after “the  
11 People’s Liberation Army” the following: “, by a ministry  
12 of the government of the People’s Republic of China, or  
13 by an entity affiliated with the defense industrial base of  
14 the People’s Republic of China”.

15 **SEC. 1213. REPORT BY PRESIDENT ON GLOBAL PEACE OP-**  
16 **ERATIONS INITIATIVE.**

17 Not later than one year after the date of the enact-  
18 ment of this Act, the President shall submit to the Con-  
19 gress a report on the Global Peace Operations Initiative.  
20 The report shall include the following elements:

21 (1) A summary of the goals of the Global Peace  
22 Operations Initiative and the timetable for achieving  
23 those goals.

24 (2) An examination of the mechanisms by  
25 which the United States will ensure that foreign

1 countries acquiring new capabilities as a result of  
2 that Initiative will use those capabilities to the na-  
3 tional security benefit of the United States.

4 (3) An examination of the mechanisms by  
5 which the United States will ensure that training  
6 and equipment provided under that Initiative are  
7 used solely for the purposes of peacekeeping and  
8 peace enforcement operations.

9 (4) An examination of the human rights prac-  
10 tices of potential recipients under that Initiative, to  
11 include a discussion of each potential recipient's  
12 commitment to representative government.

13 (5) As assessment of the financial resources re-  
14 quired to carry out that Initiative during fiscal years  
15 2005 through 2009.

16 (6) An assessment of the effectiveness of the  
17 program of the Department of State referred to as  
18 the African Contingency Operations and Training  
19 Assistance program and the capacity of that pro-  
20 gram to be expanded.

21 (7) A review that compares and contrasts the  
22 basic military skills required of warfighters and the  
23 skills needed for peacekeeping and peace enforce-  
24 ment operations.

1           (8) An assessment of the ability of military  
2           forces in the developing world to absorb, retain, and  
3           use the advanced skills and capabilities needed for  
4           effective peacekeeping and peace enforcement oper-  
5           ations.

6           (9) A proposal for providing sufficient resources  
7           to the Department of State to conduct the Global  
8           Peace Operations Initiative without significant fi-  
9           nancial contributions from the Department of De-  
10          fense.

11          (10) An explanation of the reasons of the Ad-  
12          ministration for proposing to exempt the Global  
13          Peace Operations Initiative from existing law related  
14          to the type of military and police training the United  
15          States may provide to foreign countries.

16          (11) An examination of the costs and benefits  
17          of transferring responsibility for the training and  
18          equipping of foreign military and security forces  
19          from the Department of State to the Department of  
20          Defense, including an identification of any increased  
21          resources that will be provided to the Department of  
22          Defense should the Department of Defense become  
23          responsible for that activity.

1 **SEC. 1214. PROCUREMENT SANCTIONS AGAINST FOREIGN**  
2 **PERSONS THAT TRANSFER CERTAIN DE-**  
3 **FENSE ARTICLES AND SERVICES TO THE**  
4 **PEOPLE'S REPUBLIC OF CHINA.**

5 (a) DECLARATION OF POLICY.—Congress declares  
6 that it is the policy of the United States to deny the Peo-  
7 ple's Republic of China such defense goods and defense  
8 technology that could be used to threaten the United  
9 States or undermine the security of Taiwan or the stability  
10 of the Western Pacific region.

11 (b) PROCUREMENT SANCTION.—(1) The Secretary of  
12 Defense may not procure, by contract or otherwise, any  
13 goods or services from—

14 (A) any foreign person the Secretary of Defense  
15 determines has, with actual knowledge, on or after  
16 the date of the enactment of this Act, exported,  
17 transferred, or otherwise provided to governmental  
18 or nongovernmental entities of the People's Republic  
19 of China any item or class of items on the United  
20 States Munitions List (or any item or class of items  
21 that are identical, substantially identical, or directly  
22 competitive to an item or class of items on the  
23 United States Munitions List); and

24 (B) any foreign person the Secretary of Defense  
25 determines—

1 (i) is a successor entity to a person re-  
2 ferred to in paragraph (1);

3 (ii) is a parent or subsidiary of a person  
4 referred to in paragraph (1); or

5 (iii) is an affiliate of a person referred to  
6 in paragraph (1) if that affiliate is controlled in  
7 fact by such person.

8 (2) The prohibition under paragraph (1) with respect  
9 to a foreign person shall last for a period of five years  
10 after a determination is made by the Secretary of Defense  
11 with respect to that person under paragraph (1)(A).

12 (c) PUBLIC AVAILABILITY OF LIST OF SANCTIONED  
13 PERSONS.—(1) The Secretary of Defense shall annually  
14 publish in the Federal Register a current list of any for-  
15 eign persons sanctioned under subsection (b). The removal  
16 of foreign persons from, and the addition of foreign per-  
17 sons to, the list shall also be so published.

18 (2) The Secretary shall maintain the list published  
19 under paragraph (1) on the Internet website of the De-  
20 partment of Defense.

21 (d) REMOVAL FROM LIST OF SANCTIONED PER-  
22 SONS.—The Secretary of Defense may remove a person  
23 from the list of sanctioned persons referred to in sub-  
24 section (c) only after the five-year prohibition period im-

1 posed under subsection (b) with respect to the person has  
2 expired.

3 (e) EXCEPTIONS.—(1) Subsection (b) shall not  
4 apply—

5 (A) to contracts, or subcontracts under such  
6 contracts, in existence on the date of the enactment  
7 of this Act, including options under such contracts;

8 (B) if the Secretary of Defense determines in  
9 writing that the person to which the sanctions would  
10 otherwise be applied is a sole source supplier of the  
11 goods or services being procured, that the goods or  
12 services are essential, and that alternative sources  
13 are not readily or reasonably available;

14 (C) in the case of a contract for routine serv-  
15 icing and maintenance, if the Secretary of Defense  
16 determines in writing alternative sources for per-  
17 forming the contract are not readily or reasonably  
18 available; or

19 (D) if the Secretary of Defense determines in  
20 writing that goods or services proposed to be pro-  
21 cured under the contract are essential to the na-  
22 tional security of the United States.

23 (2) Determinations under paragraph (1) shall be pub-  
24 lished in the Federal Register.

25 (f) DEFINITIONS.—In this section:

1           (1) The term “foreign person” has the meaning  
2           given the term in section 14 of the Iran and Libya  
3           Sanctions Act of 1996 (50 U.S.C. 1701).

4           (2) The term “United States Munitions List”  
5           means the list referred to in section 38(a)(1) of the  
6           Arms Export Control Act (22 U.S.C. 2778(a)(1)).

7   **SEC. 1215. MILITARY EDUCATIONAL EXCHANGES BETWEEN**  
8                           **SENIOR OFFICERS AND OFFICIALS OF THE**  
9                           **UNITED STATES AND TAIWAN.**

10          (a) **DEFENSE EXCHANGES.**—The Secretary of De-  
11          fense shall undertake a program of senior military officer  
12          and senior official exchanges with Taiwan designed to im-  
13          prove Taiwan’s defenses against the People’s Liberation  
14          Army of the People’s Republic of China.

15          (b) **EXCHANGES DESCRIBED.**—For the purposes of  
16          this section, the term “exchange” means an activity, exer-  
17          cise, event, or observation opportunity between Armed  
18          Forces personnel or Department of Defense officials of the  
19          United States and armed forces personnel and officials of  
20          Taiwan.

21          (c) **FOCUS OF EXCHANGES.**—The senior military offi-  
22          cer and senior official exchanges undertaken pursuant to  
23          subsection (a) shall include exchanges focused on the fol-  
24          lowing, especially as they relate to defending Taiwan



1 against potential submarine attack and potential missile  
2 attack:

3 (1) Threat analysis.

4 (2) Military doctrine.

5 (3) Force planning.

6 (4) Logistical support.

7 (5) Intelligence collection and analysis.

8 (6) Operational tactics, techniques, and proce-  
9 dures.

10 (d) CIVIL-MILITARY AFFAIRS.—The senior military  
11 officer and senior official exchanges undertaken pursuant  
12 to subsection (a) shall include activities and exercises fo-  
13 cused on civil-military relations, including parliamentary  
14 relations.

15 (e) LOCATION OF EXCHANGES.—The senior military  
16 officer and senior official exchanges undertaken pursuant  
17 to subsection (a) shall be conducted in both the United  
18 States and Taiwan.

19 (f) DEFINITIONS.—For purposes of this section:

20 (1) The term “senior military officer” means a  
21 general or flag officer of the Armed Forces on active  
22 duty.

23 (2) The term “senior official” means a civilian  
24 official of the Department of Defense at the level of  
25 Deputy Assistant Secretary of Defense or above.

1 **TITLE** **XIII—COOPERATIVE**  
2 **THREAT REDUCTION WITH**  
3 **STATES OF THE FORMER SO-**  
4 **VIET UNION**

5 **SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT RE-**  
6 **DUCTION PROGRAMS AND FUNDS.**

7 (a) SPECIFICATION OF CTR PROGRAMS.—For pur-  
8 poses of section 301 and other provisions of this Act, Co-  
9 operative Threat Reduction programs are the programs  
10 specified in section 1501(b) of the National Defense Au-  
11 thorization Act for Fiscal Year 1997 (Public Law 104–  
12 201; 110 Stat. 2731; 50 U.S.C. 2362 note).

13 (b) FISCAL YEAR 2005 COOPERATIVE THREAT RE-  
14 Duction FUNDS DEFINED.—As used in this title, the  
15 term “fiscal year 2005 Cooperative Threat Reduction  
16 funds” means the funds appropriated pursuant to the au-  
17 thorization of appropriations in section 301 for Coopera-  
18 tive Threat Reduction programs.

19 (c) AVAILABILITY OF FUNDS.—Funds appropriated  
20 pursuant to the authorization of appropriations in section  
21 301 for Cooperative Threat Reduction programs shall be  
22 available for obligation for three fiscal years.

23 **SEC. 1302. FUNDING ALLOCATIONS.**

24 (a) FUNDING FOR SPECIFIC PURPOSES.—Of the  
25 amount authorized to be appropriated to the Department

1 of Defense for fiscal year 2005 in section 301(19) for Co-  
2 operative Threat Reduction programs, the following  
3 amounts may be obligated for the purposes specified:

4 (1) For strategic offensive arms elimination in  
5 Russia, \$58,522,000.

6 (2) For nuclear weapons transportation security  
7 in Russia, \$26,284,000.

8 (3) For nuclear weapons storage security in  
9 Russia, \$48,720,000.

10 (4) For activities designated as Other Assess-  
11 ments/Administrative Support, \$14,267,000.

12 (5) For defense and military contacts,  
13 \$8,000,000.

14 (6) For chemical weapons destruction in Rus-  
15 sia, \$158,400,000.

16 (7) For biological weapons proliferation preven-  
17 tion in the former Soviet Union, \$55,013,000.

18 (8) For weapons of mass destruction prolifera-  
19 tion prevention in the states of the former Soviet  
20 Union, \$40,030,000.

21 (b) REPORT ON OBLIGATION OR EXPENDITURE OF  
22 FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Co-  
23 operative Threat Reduction funds may be obligated or ex-  
24 pended for a purpose other than a purpose listed in para-  
25 graphs (1) through (8) of subsection (a) until 30 days

1 after the date that the Secretary of Defense submits to  
2 Congress a report on the purpose for which the funds will  
3 be obligated or expended and the amount of funds to be  
4 obligated or expended. Nothing in the preceding sentence  
5 shall be construed as authorizing the obligation or expend-  
6 iture of fiscal year 2005 Cooperative Threat Reduction  
7 funds for a purpose for which the obligation or expendi-  
8 ture of such funds is specifically prohibited under this title  
9 or any other provision of law.

10 (c) LIMITED AUTHORITY TO VARY INDIVIDUAL  
11 AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any  
12 case in which the Secretary of Defense determines that  
13 it is necessary to do so in the national interest, the Sec-  
14 retary may obligate amounts appropriated for fiscal year  
15 2005 for a purpose listed in any of the paragraphs in sub-  
16 section (a) in excess of the specific amount authorized for  
17 that purpose.

18 (2) An obligation of funds for a purpose stated in  
19 any of the paragraphs in subsection (a) in excess of the  
20 specific amount authorized for such purpose may be made  
21 using the authority provided in paragraph (1) only after—

22 (A) the Secretary submits to Congress notifica-  
23 tion of the intent to do so together with a complete  
24 discussion of the justification for doing so; and

1 (B) 15 days have elapsed following the date of  
2 the notification.

3 (3) The Secretary may not, under the authority pro-  
4 vided in paragraph (1), obligate amounts for a purpose  
5 stated in any of paragraphs (5) through (8) of subsection  
6 (a) in excess of 125 percent of the specific amount author-  
7 ized for such purpose.

8 **SEC. 1303. TEMPORARY AUTHORITY TO WAIVE LIMITATION**  
9 **ON FUNDING FOR CHEMICAL WEAPONS DE-**  
10 **STRUCTION FACILITY IN RUSSIA.**

11 (a) TEMPORARY AUTHORITY.—Section 1305 of the  
12 National Defense Authorization Act for Fiscal Year 2000  
13 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply  
14 if the President submits to Congress a written certification  
15 that includes—

16 (1) a statement as to why a waiver of the condi-  
17 tions described in such section 1305 is important to  
18 the national security interests of the United States;

19 (2) a full and complete justification for the  
20 waiver of the conditions; and

21 (3) a plan to promote a full and accurate disclo-  
22 sure by Russia regarding the size, content, status,  
23 and location of its chemical weapons stockpile.

24 (b) EXPIRATION.—The authority in subsection (a)  
25 shall expire on September 30, 2005.

1 **TITLE XIV—EXPORT CONTROLS**  
2 **AND COUNTERPROLIFER-**  
3 **ATION MATTERS**

4 **Subtitle A—Export Control Matters**

5 **SEC. 1401. DEFINITIONS UNDER ARMS EXPORT CONTROL**  
6 **ACT.**

7 Section 47 of the Arms Export Control Act (22  
8 U.S.C. 2794) is amended—

9 (1) in paragraph (10)—

10 (A) by moving the margin two ems to the  
11 left; and

12 (B) by striking “and” at the end;

13 (2) in paragraph (11)—

14 (A) by moving the margin two ems to the  
15 left; and

16 (B) by striking the period at the end and  
17 inserting a semicolon; and

18 (3) by adding at the end the following:

19 “(12) ‘license’ means a document bearing the word  
20 license issued by the United States Government agency  
21 charged with implementing section 38 of this Act, which  
22 permits the export or import of a defense article or defense  
23 service;

1 “(13) ‘agent’ means a representative or emissary of  
2 a government other than an officer or employee of the gov-  
3 ernment; and

4 “(14) ‘exporting agent’ means a freight forwarder or  
5 other consignee designated on a license application who  
6 is authorized to act on behalf of and the control of the  
7 license applicant.”.

8 **SEC. 1402. EXEMPTION FROM LICENSING REQUIREMENTS**  
9 **FOR EXPORT OF SIGNIFICANT MILITARY**  
10 **EQUIPMENT.**

11 Section 38(b)(2) of the Arms Export Control Act (22  
12 U.S.C. 2778(b)(2)) is amended—

13 (1) by striking “(2) Except” and inserting  
14 “(2)(A) Except”;

15 (2) by striking “(A) for official” and inserting  
16 “(i) for official” and further by striking “(B) for  
17 carrying out” and inserting “(ii) for carrying out”;  
18 and

19 (3) by adding at the end the following:

20 “(B) The President may not establish an exemption  
21 in regulation or otherwise from the license requirements  
22 of this section for the export of a defense article that is  
23 significant military equipment (other than a firearm that  
24 is intended for personal use).”.

1 **SEC. 1403. COOPERATIVE PROJECTS WITH FRIENDLY FOR-**  
2 **EIGN COUNTRIES.**

3 Section 27 of the Arms Export Control Act (22  
4 U.S.C. 2767) is amended—

5 (1) in subsection (g) to read as follows:

6 “(g) Unless the President states in his certification  
7 that an emergency exists which requires the immediate ap-  
8 proval of the cooperative agreement in the national secu-  
9 rity interests of the United States (in which case the  
10 President shall set forth in the certification a justification  
11 for this determination), an agreement shall not be signed  
12 if, within the 30-day period specified in subsection (f), a  
13 joint resolution prohibiting the agreement is enacted into  
14 law.”; and

15 (2) by adding at the end the following:

16 “(k) A license shall be required for the export of de-  
17 fense articles or defense services relating to a cooperative  
18 project by any person required to be registered under sec-  
19 tion 38(b)(1)(A)(i) whenever such export is made pursu-  
20 ant to, or in furtherance of, a private contract, purchase  
21 order, or similar commercial arrangement with a foreign  
22 corporation.”.

23 **SEC. 1404. LICENSING REQUIREMENT FOR EXPORT OF**  
24 **MILITARILY CRITICAL TECHNOLOGIES.**

25 (a) **LICENSING REQUIREMENT.**—The President shall  
26 require a license under the Export Administration Regula-



1 tions of the Department of Commerce (15 C.F.R. part 730  
2 et seq.) or the International Traffic in Arms Regulations  
3 (22 C.F.R. part 120 et seq.), as the case may be, for the  
4 export of goods or technologies included on the Militarily  
5 Critical Technologies List.

6 (b) DEFINITION.—In this section, the term “Mili-  
7 tarily Critical Technologies List” means the list required  
8 to be developed by the Secretary of Defense pursuant to  
9 section 5(d)(2) of the Export Administration Act of 1979  
10 (50 U.S.C. App. 2404(d)(2)), as such list was effect on  
11 January 20, 2004, and includes any goods or technologies  
12 that have been added to the list after that date.

13 **SEC. 1405. CONTROL OF EXPORTS OF UNITED STATES**  
14 **WEAPONS TECHNOLOGY TO THE PEOPLE’S**  
15 **REPUBLIC OF CHINA.**

16 A dual use good or technology subject to the jurisdic-  
17 tion of the Export Administration Regulations of the De-  
18 partment of Commerce (15 C.F.R. part 730 et seq.) and  
19 a defense article or defense service subject to the jurisdic-  
20 tion of the International Traffic in Arms Regulations (22  
21 C.F.R. part 120 et seq.) may be exported to a foreign per-  
22 son or a foreign country that has previously exported any  
23 such item to the military, intelligence, police, or internal  
24 security services of the Government of the People’s Repub-

1 lie of China that would be prohibited for export to China  
2 if subject to United States export control laws only if—

3           (1) a license for such export is approved under  
4           the Export Administration Regulations or the Inter-  
5           national Traffic in Arms Regulations and the Sec-  
6           retary of Defense concurs in the approval of such li-  
7           cense; and

8           (2) the foreign person or foreign country agrees  
9           in writing not to transfer title to or possession of,  
10          or otherwise provide access to, the licensed items,  
11          unless the President provides written consent there-  
12          to.

13 **SEC. 1406. STRENGTHENING INTERNATIONAL EXPORT CON-**  
14 **TROLS.**

15          (a) **FINDING.**—The Congress recognizes that the  
16 international export control system, as currently con-  
17 stituted, is insufficient to achieve the national security in-  
18 terests of the United States.

19          (b) **NATIONAL EXPORT CONTROL POLICY.**—It is the  
20 policy of the United States to seek continued negotiations  
21 of a strengthened international export control system for  
22 the control of arms and militarily-sensitive goods and tech-  
23 nology to countries of concern.

24          (c) **PRESIDENTIAL REPORTING REQUIREMENT.**—(1)  
25 Not later than 180 days after the date of the enactment

1 of this Act, and every six months thereafter, the President  
2 shall submit to the committees referred to in subsection  
3 (d) a report setting forth the President's plan for effecting  
4 a strengthened international export control system capable  
5 of achieving the national security interests of the United  
6 States.

7 (2) The report shall include—

8 (A) an evaluation of the effectiveness of the  
9 current international export control system;

10 (B) a plan for negotiating and implementing a  
11 strengthened international export control system ca-  
12 pable of achieving the national security interests of  
13 the United States; and

14 (C) challenges to and progress in negotiating  
15 and implementing that plan.

16 (d) COMMITTEES; CLASSIFICATION OF REPORT.—(1)

17 The report required by subsection (c) shall be submitted  
18 to—

19 (A) the Committee on Armed Services, the  
20 Committee on International Relations, and the Per-  
21 manent Select Committee on Intelligence of the  
22 House of Representatives; and

23 (B) the Committee on Armed Services, the  
24 Committee on Banking, Housing and Urban Affairs,

1 and the Select Committee on Intelligence of the Sen-  
2 ate.

3 (2) The report shall be submitted in unclassified form  
4 and, as necessary, in classified form.

5 **Subtitle B—Counterproliferation**  
6 **Matters**

7 **SEC. 1411. DEFENSE INTERNATIONAL COUNTER-**  
8 **PROLIFERATION PROGRAMS.**

9 (a) INTERNATIONAL SECURITY PROGRAM TO PRE-  
10 VENT UNAUTHORIZED TRANSFER AND TRANSPORTATION  
11 OF WMDs.—Subsection (b) of section 1424 of the De-  
12 fense Against Weapons of Mass Destruction Act of 1996  
13 (50 U.S.C. 2333) is amended to read as follows:

14 “(b) OTHER COUNTRIES.—The Secretary of Defense  
15 may carry out programs under subsection (a) in a country  
16 other than a country specified in that subsection if the  
17 Secretary determines that there exists in that country a  
18 significant threat of the unauthorized transfer and trans-  
19 portation of nuclear, biological, or chemical weapons or re-  
20 lated materials.”.

21 (b) INTERNATIONAL TRAINING PROGRAM TO DETER  
22 WMD PROLIFERATION.—Section 1504(e)(3)(A) of the  
23 National Defense Authorization Act for Fiscal Year 1995  
24 (Public Law 103–337; 108 Stat. 2918) is amended—

1           (1) by striking “The training program referred  
2           to in paragraph (1)(B) is a” and inserting “The Sec-  
3           retary of Defense may participate in a”;

4           (2) by inserting “of” after “acquisition”;

5           (3) by striking “and” after “countries”; and

6           (4) by inserting before the period at the end the  
7           following: “, and in other countries in which, as de-  
8           termined by the Secretary of Defense, there exists a  
9           significant threat of such proliferation and acquisi-  
10          tion”.

11 **SEC. 1412. DEFENSE COUNTERPROLIFERATION FELLOW-**  
12 **SHIP PROGRAM.**

13           (a) PROGRAM AUTHORIZED.—Chapter 101 of title  
14 10, United States Code, is amended by adding at the end  
15 the following new section:

16 **“§ 2015. Defense counterproliferation fellowship pro-**  
17 **gram**

18           “(a) PROGRAM AUTHORITY.—The Secretary of De-  
19 fense may carry out a program under which foreign mili-  
20 tary defense personnel are selected to attend Department  
21 of Defense courses and programs in counterproliferation  
22 and nonproliferation matters in order to improve the abil-  
23 ity of the foreign military defense personnel to contribute  
24 to halting the illicit acquisition or transportation of weap-

1 ons of mass destruction or of materials that support the  
2 development or use of such weapons.

3 “(b) AUTHORITY TO PAY FOR COSTS OF PARTICI-  
4 PANTS.—The Secretary of Defense may pay for all costs  
5 (including transportation, travel, and subsistence costs)  
6 associated with the attendance by a participant at courses  
7 and programs in the program under this section.

8 “(c) PARTICIPANTS.—(1) The following persons may  
9 be selected for participation in the program under this sec-  
10 tion:

11 “(A) Foreign military officers.

12 “(B) Foreign ministry of defense officials.

13 “(2) Participants in the program shall be selected by  
14 the Secretary of Defense based upon recommendations  
15 made by the commanders of the regional unified combat-  
16 ant commands.

17 “(d) AUTHORIZED PROGRAM ACTIVITIES.—Partici-  
18 pants in the program may be selected for attendance at,  
19 and may be authorize to attend, any of the following:

20 “(1) Department of Defense professional mili-  
21 tary educational institutions.

22 “(2) Regional centers for security studies of the  
23 Department of Defense.

1       “(e) REGULATIONS.—The Secretary of Defense shall  
2 prescribe regulations for the administration of the pro-  
3 gram under this section.”.

4       (b) CLERICAL AMENDMENT.—The table of sections  
5 at the beginning of such chapter is amended by adding  
6 at the end the following new item:

“2015. Defense counterproliferation fellowship program.”.

7       **Subtitle C—Initiatives Relating to**  
8       **Countries of Former Soviet Union**

9       **SEC. 1421. SILK ROAD INITIATIVE.**

10       (a) FINDINGS.—Congress makes the following find-  
11 ings:

12               (1) A number of independent states of the  
13 former Soviet Union have been helpful to the United  
14 States in the war on terrorism.

15               (2) Such states are new and struggling democ-  
16 racies and would benefit considerably from assist-  
17 ance to create sustainable jobs for their under-  
18 employed or unemployed scientists, engineers, and  
19 technicians who were formerly engaged in activities  
20 to develop and produce weapons of mass destruction  
21 for the Russian Federation or other such state.

22       (b) POLICIES.—(1) It is the policy of the United  
23 States to seek to establish and promote programs to pre-  
24 vent the proliferation, from scientists, engineers, and tech-  
25 nicians of the Russian Federation and other independent

1 states of the former Soviet Union to countries of prolifera-  
2 tion concern, of expertise to develop and produce weapons  
3 of mass destruction.

4 (2) It is also the policy of the United States to seek  
5 to assist independent states of the former Soviet Union  
6 that have been helpful to the United States in the war  
7 on terrorism so as to promote the creation of jobs that  
8 foster economic stability and democracy.

9 (c) PROGRAM AUTHORIZED.—(1) The Secretary of  
10 Energy may carry out a program, to be known as the Silk  
11 Road Initiative, to promote non-weapons-related employ-  
12 ment opportunities in the United States and in Silk Road  
13 nations for scientists, engineers, and technicians formerly  
14 engaged in activities to develop and produce weapons of  
15 mass destruction in Silk Road nations. The program  
16 should—

17 (A) incorporate best practices under the former  
18 Initiatives for Proliferation Prevention program; and

19 (B) facilitate commercial partnerships between  
20 private entities in the United States and scientists,  
21 engineers, and technicians in the Silk Road nations.

22 (2) Before implementing the program with respect to  
23 multiple Silk Road nations, the Secretary of Energy shall  
24 carry out a pilot program with respect to one Silk Road  
25 nation selected by the Secretary. It is the sense of Con-



1 gress that the Secretary should select the Republic of  
2 Georgia.

3 (d) SILK ROAD NATIONS DEFINED.—In this section,  
4 the Silk Road nations are Armenia, Azerbaijan, the Re-  
5 public of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan,  
6 Turkmenistan, and Uzbekistan.

7 (e) FUNDING.—Of the funds authorized to be appro-  
8 priated to the Department of Energy for nonproliferation  
9 and international security for fiscal year 2005,  
10 \$10,000,000 may be used to carry out this section.

11 **SEC. 1422. TELLER-KURCHATOV NONPROLIFERATION FEL-**  
12 **LOWSHIPS.**

13 (a) IN GENERAL.—(1) From amounts made available  
14 to carry out this section, the Administrator for Nuclear  
15 Security may carry out a program under which the Ad-  
16 ministrator awards, to scientists employed at the  
17 Kurchatov Institute of the Russian Federation and sci-  
18 entists employed at Lawrence Livermore National Labora-  
19 tory, international exchange fellowships, to be known as  
20 Teller-Kurchatov Nonproliferation Fellowships, in the nu-  
21 clear nonproliferation sciences.

22 (2) The purpose of the program shall be to provide  
23 opportunities for advancement in the field of nuclear non-  
24 proliferation to scientists who, as demonstrated by their

1 academic or professional achievements, show particular  
2 promise of making significant contributions in that field.

3 (3) A fellowship awarded to a scientist under the pro-  
4 gram shall be for study and training at (and, where appro-  
5 priate, at an institution of higher education in the vicinity  
6 of)—

7 (A) the Kurchatov Institute, in the case of a  
8 scientist employed at Lawrence Livermore National  
9 Laboratory; and

10 (B) Lawrence Livermore National Laboratory,  
11 in the case of a scientist employed at the Kurchatov  
12 Institute.

13 (4) The duration of a fellowship under the program  
14 may not exceed two years, except that the Administrator  
15 may provide for a longer duration in an individual case  
16 to the extent warranted by extraordinary circumstances,  
17 as determined by the Administrator.

18 (5) In a calendar year, the Administrator may not  
19 award more than—

20 (A) one fellowship to a scientist employed at the  
21 Kurchatov Institute; and

22 (B) one fellowship to a scientist employed at  
23 Lawrence Livermore National Laboratory.

24 (6) A fellowship under the program shall include—

25 (A) travel expenses;

1 (B) any tuition and fees at an institution of  
2 higher education for study or training under the fel-  
3 lowship; and

4 (C) any other expenses that the Administrator  
5 considers appropriate, such as room and board.

6 (b) DEFINITIONS.—In this section:

7 (1) The term “institution of higher education”  
8 means a college, university, or other educational in-  
9 stitution that is empowered by an appropriate au-  
10 thority, as determined by the Administrator, to  
11 award degrees higher than the baccalaureate level.

12 (2) The term “nuclear nonproliferation  
13 sciences” means bodies of scientific knowledge rel-  
14 evant to developing or advancing the means to pre-  
15 vent or impede the proliferation of nuclear weap-  
16 onry.

17 (3) The term “scientist” means an individual  
18 who has a degree from an institution of higher edu-  
19 cation in a science that has practical application in  
20 the field of nuclear nonproliferation.

21 (c) FUNDING.—Of the funds authorized to be appro-  
22 priated to the Department of Energy for nonproliferation  
23 and international security for fiscal year 2005,  
24 \$10,000,000 may be used to carry out this section.

1 **SEC. 1423. COLLABORATION TO REDUCE THE RISKS OF A**  
2 **LAUNCH OF RUSSIAN NUCLEAR WEAPONS.**

3 (a) FINDINGS.—Congress finds that, despite the end-  
4 ing of the Cold War more than a decade ago, the nuclear  
5 postures and strategic command and control systems of  
6 the Russian Federation pose risks that a nuclear ballistic  
7 missile could be launched as the result of an accident, mis-  
8 information, miscalculation, or unauthorized use. Such  
9 risks are posed as a result of factors including the fol-  
10 lowing:

11 (1) The high state of readiness of the Russian  
12 Federation's nuclear forces.

13 (2) The remote locations of much of the Rus-  
14 sian Federation's nuclear forces.

15 (3) The inadequacy of the Russian Federation's  
16 early-warning information.

17 (4) The very short time that would be available  
18 to the President of the Russian Federation if the  
19 President were informed that a nuclear ballistic mis-  
20 sile attack was or might be underway.

21 (5) The possibility that the Russian Federation,  
22 because of concerns that much of its nuclear forces  
23 would not survive a nuclear attack, may have a nu-  
24 clear deterrence posture reliant upon launching a re-  
25 taliatory nuclear strike when it believes a nuclear

1       ballistic missile attack against it is or might be un-  
2       derway.

3           (6) Deficiencies in the security and control of  
4       the nuclear forces of the Russian Federation that  
5       could result in unauthorized personnel gaining con-  
6       trol of a nuclear-armed missile or warhead.

7           (7) The susceptibility of nuclear strategic com-  
8       mand and control systems and early-warning sys-  
9       tems to an intrusion or accident that could create  
10      the false appearance that a nuclear ballistic missile  
11      attack is or might be underway.

12      (b) REPORT.—(1) Not later than November 1, 2005,  
13      the Secretary of Defense shall submit to Congress a report  
14      on the collaborative measures that the United States and  
15      the Russian Federation could take to reduce the risks that  
16      a nuclear ballistic missile could be launched as the result  
17      of an accident, misinformation, miscalculation, or unau-  
18      thorized use. For each such measure, the report shall  
19      provide—

20           (A) specific comments on the advisability of the  
21      measure in terms of the potential contribution of the  
22      measure to the national security interests of the  
23      United States, including the potential contribution  
24      of the measure in improving relations between the  
25      United States and the Russian Federation; and

1 (B) a description of the obstacles and opportu-  
2 nities associated with pursuing the measure.

3 (2) In addition to any other measure that the Sec-  
4 retary considers appropriate, the report required by para-  
5 graph (1) shall cover the following measures:

6 (A) The future of the Joint Data Exchange  
7 Center.

8 (B) Potential topics for discussion between  
9 high-level military leaders of the United States and  
10 of the Russian Federation on reducing the risk that  
11 a nuclear ballistic missile could be launched as the  
12 result of an accident, misinformation, miscalculation,  
13 or unauthorized use.

14 **TITLE XV—AUTHORIZATION FOR**  
15 **INCREASED COSTS DUE TO**  
16 **OPERATION IRAQI FREEDOM**  
17 **AND OPERATION ENDURING**  
18 **FREEDOM**

19 **SEC. 1501. PURPOSE.**

20 The purpose of this title is to authorize appropria-  
21 tions for the Department of Defense for fiscal year 2005,  
22 in addition to amounts otherwise authorized by this Act,  
23 to provide funds for additional costs due to Operation  
24 Iraqi Freedom and Operation Enduring Freedom.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 1511. ARMY PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, \$498,300,000.

(2) For missiles, \$42,800,000.

(3) For weapons and tracked combat vehicles, \$201,900,000.

(4) For ammunition, \$78,750,000.

(5) For other procurement, \$1,567,410,000.

(6) For National Guard and Reserve equipment, \$50,000,000.

### **SEC. 1512. NAVY AND MARINE CORPS PROCUREMENT.**

(a) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for the Marine Corps in the amount of \$98,190,000.

(b) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of \$38,402,000.

1   **SEC. 1513. AIR FORCE PROCUREMENT.**

2       Funds are hereby authorized to be appropriated for  
3   fiscal year 2005 for the procurement account for aircraft  
4   for the Air Force in amount of \$99,000,000.

5   **SEC. 1514. DEFENSE-WIDE ACTIVITIES PROCUREMENT.**

6       Funds are hereby authorized to be appropriated for  
7   fiscal year 2005 for the procurement account for Defense-  
8   wide procurement in the amount of \$720,000,000.

9   **SEC. 1515. OPERATION AND MAINTENANCE.**

10      Funds are hereby authorized to be appropriated for  
11   fiscal year 2005 for the use of the Armed Forces for ex-  
12   penses, not otherwise provided for, for operation and  
13   maintenance, in amounts as follows:

- 14           (1) For the Army, \$9,607,113,000.  
15           (2) For the Navy, \$256,500,000.  
16           (3) For the Marine Corps, \$2,398,735,000.  
17           (4) For the Air Force, \$1,635,000,000.  
18           (5) For Defense-wide, \$2,327,900,000.

19   **SEC. 1516. DEFENSE HEALTH PROGRAM.**

20      Funds are hereby authorized to be appropriated for  
21   the Department of Defense for fiscal year 2005 for ex-  
22   penses, not otherwise provided for, for the Defense Health  
23   Program, in the amount of \$75,000,000, for Operation  
24   and Maintenance.



1 **SEC. 1517. MILITARY PERSONNEL.**

2       There is hereby authorized to be appropriated to the  
3 Department of Defense for military personnel accounts for  
4 fiscal year 2005 a total of \$5,305,000,000.

5 **SEC. 1518. TREATMENT AS ADDITIONAL AUTHORIZATIONS.**

6       The amounts authorized to be appropriated by this  
7 title are in addition to amounts otherwise authorized to  
8 be appropriated by this Act.

9 **SEC. 1519. TRANSFER AUTHORITY.**

10       (a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.—**

11       (1) Upon determination by the Secretary of Defense that  
12 such action is necessary in the national interest, the Sec-  
13 retary may transfer amounts of authorizations made avail-  
14 able to the Department of Defense in this title for fiscal  
15 year 2005 between any such authorizations for that fiscal  
16 year (or any subdivisions thereof). Amounts of authoriza-  
17 tions so transferred shall be merged with and be available  
18 for the same purposes as the authorization to which trans-  
19 ferred.

20       (2) The total amount of authorizations that the Sec-  
21 retary may transfer under the authority of this section  
22 may not exceed \$2,500,000,000. The transfer authority  
23 provided in this section is in addition to any other transfer  
24 authority available to the Secretary of Defense.

25       (b) **LIMITATIONS.—**The authority provided by this  
26 section to transfer authorizations—

1           (1) may only be used to provide authority for  
2       items that have a higher priority than the items  
3       from which authority is transferred;

4           (2) may not be used to provide authority for an  
5       item that has been denied authorization by Con-  
6       gress; and

7           (3) may not be combined with the authority  
8       under section 1001.

9       (c) EFFECT ON AUTHORIZATION AMOUNTS.—A  
10   transfer made from one account to another under the au-  
11   thority of this section shall be deemed to increase the  
12   amount authorized for the account to which the amount  
13   is transferred by an amount equal to the amount trans-  
14   ferred.

15       (d) NOTICE TO CONGRESS.—The Secretary shall  
16   promptly notify Congress of each transfer made under  
17   subsection (a).

18   **SEC. 1520. DESIGNATION OF EMERGENCY AUTHORIZA-**  
19                                   **TIONS.**

20       The amounts authorized to be appropriated by this  
21   title are available upon the enactment of this Act and are  
22   designated for emergency contingency operations related  
23   to the global war on terrorism.

## 1     **Subtitle B—Personnel Provisions**

### 2     **SEC. 1531. THREE-YEAR INCREASE IN ACTIVE ARMY** 3                   **STRENGTH LEVELS.**

4           (a) AUTHORIZED END STRENGTHS.—(1) The end  
5 strength level authorized for the Army for fiscal year 2005  
6 under section 401 is hereby increased by 10,000.

7           (2) For fiscal years 2006 and 2007, the Army is au-  
8 thorized strengths for active duty personnel as follows:

9                   (A) As of September 30, 2006, 502,400.

10                  (B) As of September 30, 2007, 512,400.

11          (b) STATUTORY MINIMUM ACTIVE STRENGTH  
12 LEVEL.—The minimum strength for the Army under sec-  
13 tion 691(b) of title 10, United States Code (notwith-  
14 standing the number specified in paragraph (1) of that  
15 section)—

16                  (1) for the period beginning on October 1,  
17 2004, and ending on September 30, 2005, shall be  
18 the number specified in section 401(1) of this Act,  
19 increased by 10,000;

20                  (2) for the period beginning on October 1,  
21 2005, and ending on September 30, 2006, shall be  
22 502,400; and

23                  (3) for the period beginning on October 1,  
24 2006, and ending on September 30, 2007, shall be  
25 512,400.

1       (c) NOTICE TO CONGRESS.—If the Secretary of De-  
2 fense, in consultation with the Secretary of the Army, de-  
3 termines that adjustments are necessary to the minimum  
4 end-strength level for the Army in effect at any time pur-  
5 suant to subsection (b), the Secretary of Defense shall  
6 submit to the Committees on Armed Services of the Sen-  
7 ate and House of Representatives a report providing the  
8 Secretary's recommendations and rationale for such an  
9 adjustment. Such a report must be submitted before the  
10 submission of the budget request for the fiscal year for  
11 which the change would be effective.

12 **SEC. 1532. THREE-YEAR INCREASE IN ACTIVE MARINE**  
13 **CORPS STRENGTH LEVELS.**

14       (a) AUTHORIZED END STRENGTHS.—(1) The end  
15 strength level authorized for the Marine Corps for fiscal  
16 year 2005 under section 401 is hereby increased by 3,000.

17       (2) For fiscal years 2006 and 2007, the Marine Corps  
18 is authorized strengths for active duty personnel as fol-  
19 lows:

20               (A) As of September 30, 2006, 181,000.

21               (B) As of September 30, 2007, 184,000.

22       (b) STATUTORY MINIMUM ACTIVE STRENGTH  
23 LEVEL.—The minimum strength for the Marine Corps  
24 under section 691(b) of title 10, United States Code (not-

1 withstanding the number specified in paragraph (3) of  
2 that section)—

3           (1) for the period beginning on October 1,  
4           2004, and ending on September 30, 2005, shall be  
5           the number specified in section 401(3) of this Act,  
6           increased by 3,000;

7           (2) for the period beginning on October 1,  
8           2005, and ending on September 30, 2006, shall be  
9           181,000; and

10          (3) for the period beginning on October 1,  
11          2006, and ending on September 30, 2007, shall be  
12          184,000.

13          (c) NOTICE TO CONGRESS.—If the Secretary of De-  
14 fense, in consultation with the Secretary of the Navy, de-  
15 termines that adjustments are necessary to the minimum  
16 end-strength level for the Marine Corps in effect at any  
17 time pursuant to subsection (b), the Secretary of Defense  
18 shall submit to the Committees on Armed Services of the  
19 Senate and House of Representatives a report providing  
20 the Secretary's recommendations and rationale for such  
21 an adjustment. Such a report must be submitted before  
22 the submission of the budget request for the fiscal year  
23 for which the change would be effective.

1 **SEC. 1533. EXTENSION OF INCREASED RATES FOR IMMI-**  
2 **NENT DANGER PAY AND FAMILY SEPARATION**  
3 **ALLOWANCE.**

4 (a) IMMINENT DANGER PAY.—(1) Subsection (e) of  
5 section 310 of title 37, United States Code, is amended  
6 by striking “December 31, 2004” and inserting “Decem-  
7 ber 31, 2005”.

8 (2) Effective January 1, 2006, such section is further  
9 amended—

10 (A) in subsection (a), by striking “\$150” and  
11 inserting “\$225”; and

12 (B) by striking subsection (e).

13 (b) FAMILY SEPARATION ALLOWANCE.—(1) Sub-  
14 section (e) of section 427 of such title is amended by strik-  
15 ing “December 31, 2004” and inserting “December 31,  
16 2005”.

17 (2) Effective January 1, 2006, such section is further  
18 amended—

19 (A) in subsection (a)(1), by striking “\$100”  
20 and inserting “\$250”; and

21 (B) by striking subsection (e).

1   **Subtitle C—Financial Management**  
2                           **Matters**

3   **SEC. 1541. REVISED FUNDING METHODOLOGY FOR MILI-**  
4                           **TARY RETIREE HEALTH CARE BENEFITS.**

5           (a) REVISION.—Section 1116 of title 10, United  
6 States Code, is amended to read as follows:

7   **“§ 1116. Payments into the Fund**

8           “(a) At the beginning of each fiscal year after Sep-  
9 tember 30, 2005, the Secretary of the Treasury shall  
10 promptly pay into the Fund from the General Fund of  
11 the Treasury—

12                   “(1) the amount certified to the Secretary by  
13 the Secretary of Defense under subsection (c), which  
14 shall be the contribution to the Fund for that fiscal  
15 year required by section 1115; and

16                   “(2) the amount determined by each admin-  
17 istering Secretary under section 1111(c) as the con-  
18 tribution to the Fund on behalf of the members of  
19 the uniformed services under the jurisdiction of that  
20 Secretary.

21           “(b) At the beginning of each fiscal year, the Sec-  
22 retary of Defense shall determine the sum of the following:

23                   “(1) The amount of the payment for that year  
24 under the amortization schedule determined by the  
25 Board of Actuaries under section 1115(a) of this

1 title for the amortization of the original unfunded li-  
2 ability of the Fund.

3 “(2) The amount (including any negative  
4 amount) of the Department of Defense contribution  
5 for that year as determined by the Secretary of De-  
6 fense under section 1115(b) of this title.

7 “(3) The amount (including any negative  
8 amount) for that year under the most recent amorti-  
9 zation schedule determined by the Secretary of De-  
10 fense under section 1115(c)(2) of this title for the  
11 amortization of any cumulative unfunded liability (or  
12 any gain) to the Fund resulting from changes in  
13 benefits.

14 “(4) The amount (including any negative  
15 amount) for that year under the most recent amorti-  
16 zation schedule determined by the Secretary of De-  
17 fense under section 1115(c)(3) of this title for the  
18 amortization of any cumulative actuarial gain or loss  
19 to the Fund resulting from actuarial assumption  
20 changes.

21 “(5) The amount (including any negative  
22 amount) for that year under the most recent amorti-  
23 zation schedule determined by the Secretary of De-  
24 fense under section 1115(c)(4) of this title for the



1       amortization of any cumulative actuarial gain or loss  
2       to the Fund resulting from actuarial experience.

3       “(c) The Secretary of Defense shall promptly certify  
4 the amount determined under subsection (b) each year to  
5 the Secretary of the Treasury.”.

6       (b) CONFORMING AMENDMENTS.—(1) Section  
7 1111(c) of title 10, United States Code, is amended in  
8 the last sentence by striking “1116” and all that follows  
9 through the end of the sentence and inserting “1115(b)  
10 of this title, and such contributions shall be paid into the  
11 Fund as provided in section 1116(a).”.

12       (2) Section 1115(a) of such title is amended by strik-  
13 ing “1116(c)” and inserting “1116”.

14       (3) Section 1115(b) of such title is amended—

15           (A) by striking “(1) The Secretary of Defense”  
16 and all that follows through “of this title.” and in-  
17 serting “The Secretary of Defense shall determine,  
18 before the beginning of each fiscal year after Sep-  
19 tember 30, 2005, the total amount of the Depart-  
20 ment of Defense contribution to be made to the  
21 Fund for that fiscal year for purposes of section  
22 1116(b)(2).”;

23           (B) by striking paragraph (2);

24           (C) by redesignating subparagraphs (A) and  
25 (B) as paragraphs (1) and (2), respectively;

1 (D) in each of paragraphs (1) and (2), as so re-  
 2 designated, by redesignating clauses (i) and (ii) as  
 3 subparagraphs (A) and (B), respectively; and

4 (E) in paragraph (2)(B), as so redesignated, by  
 5 striking “subparagraph (A)(ii)” and inserting “para-  
 6 graph (1)(B)”.

7 (4) Section 1115(c)(1) of such title is amended by  
 8 striking “and section 1116(a) of this title”.

9 (5) Section 1115(c)(5) of such title is amended by  
 10 striking “1116(c)” and inserting “1116”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall take effect on October 1, 2005.

13 **DIVISION B—MILITARY CON-**  
 14 **STRUCTION AUTHORIZA-**  
 15 **TIONS**

16 **SECTION 2001. SHORT TITLE.**

17 This division may be cited as the “Military Construc-  
 18 tion Authorization Act for Fiscal Year 2005”.

19 **TITLE XXI—ARMY**

20 **SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND**  
 21 **ACQUISITION PROJECTS.**

22 (a) INSIDE THE UNITED STATES.—Using amounts  
 23 appropriated pursuant to the authorization of appropria-  
 24 tions in section 2104(a)(1), the Secretary of the Army  
 25 may acquire real property and carry out military construc-

tion projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

State	Installation or Location	Amount
Alabama .....	Anniston Army Depot .....	\$23,690,000
Alaska .....	Fort Richardson .....	\$24,300,000
	Fort Wainwright .....	\$92,459,000
California .....	Fort Irwin .....	\$38,100,000
Colorado .....	Fort Carson .....	\$59,508,000
Georgia .....	Fort Benning .....	\$73,627,000
	Fort Gillem .....	\$5,800,000
	Fort McPherson .....	\$4,900,000
	Fort Stewart/Hunter Army Air Field .....	\$65,495,000
Hawaii .....	Helemano Military Reservation	\$75,300,000
	Hickam Air Force .....	\$11,200,000
	Schofield Barracks .....	\$241,792,000
Kansas .....	Fort Riley .....	\$44,050,000
Kentucky .....	Fort Campbell .....	\$89,600,000
	Fort Knox .....	\$73,850,000
Louisiana .....	Fort Polk .....	\$70,953,000
Maryland .....	Fort Detrick .....	\$4,000,000
Missouri .....	Fort Leonard Wood .....	\$21,450,000
New Jersey .....	Picatinny Arsenal .....	\$9,900,000
New Mexico .....	White Sands Missile Range .....	\$33,000,000
New York .....	Fort Drum .....	\$13,650,000
	Fort Hamilton .....	\$7,600,000
	Hancock Field .....	\$6,000,000
	Military Entrance Processing Station, Buffalo .....	\$6,200,000
	United States Military Academy, West Point .....	\$60,000,000
North Carolina .....	Fort Bragg .....	\$111,687,000
Oklahoma .....	Fort Sill .....	\$17,800,000
Texas .....	Camp Bullis .....	\$5,300,000
	Fort Bliss .....	\$19,400,000
	Fort Hood .....	\$88,888,000
Virginia .....	Fort A.P. Hill .....	\$3,975,000
	Fort Lee .....	\$4,250,000
	Fort Myer .....	\$49,526,000
Washington .....	Fort Lewis .....	\$48,000,000
	Total .....	\$1,505,250,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropria-

tions in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

Country	Installation or Location	Amount
Germany .....	Grafenwoehr .....	\$77,200,000
Italy .....	Livorno .....	\$26,000,000
Korea .....	Camp Humphreys .....	\$12,000,000
	Total .....	\$115,200,000

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

**Army: Family Housing**

State	Installation or Location	Purpose	Amount
Alaska .....	Fort Richardson .....	92 Units .....	\$42,000,000
	Fort Wainwright .....	246 Units .....	\$124,000,000
Arizona .....	Fort Huachuca .....	205 Units .....	\$41,000,000
	Yuma Proving Ground	55 Units .....	\$14,900,000
Kansas .....	Fort Riley .....	126 Units .....	\$33,000,000
New Mexico .....	White Sands Missile Range .....	156 Units .....	\$31,000,000
Oklahoma .....	Fort Sill .....	247 Units .....	\$47,000,000
Virginia .....	Fort Lee .....	218 Units .....	\$46,000,000
	Fort Monroe .....	68 Units .....	\$16,000,000

**Army: Family Housing**—Continued

State	Installation or Location	Purpose	Amount
	Total .....	.....	\$394,900,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$29,209,000.

8 SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING  
9 UNITS.

10           Subject to section 2825 of title 10, United States  
11 Code, and using amounts appropriated pursuant to the  
12 authorization of appropriations in section 2104(a)(5)(A),  
13 the Secretary of the Army may improve existing military  
14 family housing units in an amount not to exceed  
15 \$211,990,000.

16 SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition and military family housing functions of the Department of the Army in the total amount of \$3,428,815,000 as follows:

1           (1) For military construction projects inside the  
2       United States authorized by section 2101(a),  
3       \$1,335,750,000.

4           (2) For military construction projects outside  
5       the United States authorized by section 2101(b),  
6       \$115,200,000.

7           (3) For unspecified minor military construction  
8       projects authorized by section 2805 of title 10,  
9       United States Code, \$20,000,000.

10          (4) For architectural and engineering services  
11       and construction design under section 2807 of title  
12       10, United States Code, \$161,209,000.

13          (5) For military family housing functions:

14               (A) For construction and acquisition, plan-  
15               ning and design, and improvement of military  
16               family housing and facilities, \$636,099,000.

17               (B) For support of military family housing  
18               (including the functions described in section  
19               2833 of title 10, United States Code),  
20               \$926,507,000.

21          (6) For the construction of phase 2 of a bar-  
22       racks complex, 5th & 16th Street, at Fort Stewart/  
23       Hunter Army Air Field, Georgia, authorized by sec-  
24       tion 2101(a) of the Military Construction Authoriza-

tion Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), \$32,950,000.

(7) For the construction of phase 3 of a barracks complex renewal, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1283) and as amended by section 2105 of the Military Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), \$48,000,000.

(8) For the construction of phase 2 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), \$44,000,000.

(9) For the construction of phase 2 of a barracks complex at Wheeler Sack Army Air Field at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), \$48,000,000.

(10) For the construction of phase 2 of a barracks complex, Bastogne Drive, Fort Bragg, North

1 Carolina, authorized by section 2101(a) of the Mili-  
2 tary Construction Authorization Act for Fiscal Year  
3 2004 (division B of Public Law 108–136; 117 Stat.  
4 1697), \$48,000,000.

5 (11) For the construction of phase 3 of a main-  
6 tenance complex at Fort Sill, Oklahoma, authorized  
7 by section 2101(a) of the Military Construction Au-  
8 thorization Act for Fiscal Year 2003 (division B of  
9 Public Law 107–314; 116 Stat. 2681), \$13,100,000.

10 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
11 PROJECTS.—Notwithstanding the cost variations author-  
12 ized by section 2853 of title 10, United States Code, and  
13 any other cost variation authorized by law, the total cost  
14 of all projects carried out under section 2101 of this Act  
15 may not exceed the sum of the following:

16 (1) The total amount authorized to be appro-  
17 priated under paragraphs (1) and (2) of subsection  
18 (a).

19 (2) \$41,000,000 (the balance of the amount au-  
20 thorized under section 2101(a) to upgrade Drum  
21 Road, Helemano Military Reservation, Hawaii).

22 (3) \$25,000,000 (the balance of the amount au-  
23 thorized under section 2101(a) for construction of a  
24 vehicle maintenance facility, Schofield Barracks, Ha-  
25 waii).



1           (3) \$25,000,000 (the balance of the amount au-  
2           thorized under section 2101(a) for construction of a  
3           barracks complex, Fort Campbell, Kentucky).

4           (4) \$22,000,000 (the balance of the amount au-  
5           thorized under section 2101(a) for construction of  
6           trainee barracks, Basic Training Complex 1, Fort  
7           Knox, Kentucky).

8           (5) \$25,500,000 (the balance of the amount au-  
9           thorized under section 2101(a) for construction of a  
10          library and learning facility, United States Military  
11          Academy, West Point, New York).

12          (6) \$31,000,000 (the balance of the amount au-  
13          thorized under section 2101(a) for a barracks com-  
14          plex renewal project, Fort Bragg, North Carolina).

15 **SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT**  
16 **CERTAIN FISCAL YEAR 2004 PROJECTS.**

17          (a) MODIFICATION OF INSIDE THE UNITED STATES  
18 PROJECTS.—The table in section 2101(a) of the Military  
19 Construction Authorization Act for Fiscal Year 2004 (di-  
20 vision B of Public Law 108–136; 117 Stat. 1697) is  
21 amended—

22           (1) in the item relating to Fort Stewart/Hunter  
23          Army Air Field, Georgia, by striking  
24          “\$113,500,000” in the amount column and inserting  
25          “\$114,450,000”;

1           (2) in the item relating to Fort Drum, New  
2       York, by striking “\$130,700,000” in the amount  
3       column and inserting “\$135,700,000”; and

4           (3) by striking the amount identified as the  
5       total in the amount column and inserting  
6       “\$1,043,150,000”.

7       (b) CONFORMING AMENDMENTS.—Section 2104(b)  
8       of that Act (117 Stat. 1700) is amended—

9           (1) in paragraph (2), by striking  
10       “\$32,000,000” and inserting “\$32,950,000”; and

11          (2) in paragraph (4), by striking  
12       “\$43,000,000” and inserting “\$48,000,000”.

13       **SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT**  
14                               **CERTAIN FISCAL YEAR 2003 PROJECT.**

15       (a) MODIFICATION OF INSIDE THE UNITED STATES  
16       PROJECT.—The table in section 2101(a) of the Military  
17       Construction Authorization Act for Fiscal Year 2003 (di-  
18       vision B of Public Law 107–314; 116 Stat. 2681), as  
19       amended by section 2105(a) of the Military Construction  
20       Authorization Act for Fiscal Year 2004 (division B of  
21       Public Law 108–136; 117 Stat. 1700), is further  
22       amended—

23           (1) in the item relating to Fort Sill, Oklahoma,  
24       by striking “\$39,652,000” in the amount column  
25       and inserting “\$40,752,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$1,157,267,000”.

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2684) is amended by striking “\$25,000,000” and inserting “\$26,100,000”.

## TITLE XXII—NAVY

### SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

#### Navy: Inside the United States

State	Installation or Location	Amount
Arizona .....	Marine Corps Air Station, Yuma	\$26,670,000
California .....	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms .....	\$15,700,000
	Marine Corps Air Station, Camp Pendleton .....	\$11,540,000
	Marine Corps Base, Camp Pendleton .....	\$26,915,000
	Marine Corps Logistics Base, Barstow .....	\$4,930,000
	Naval Air Facility, El Centro .....	\$54,331,000
	Naval Air Station, North Island ..	\$10,180,000

**Navy: Inside the United States**—Continued

<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
	Naval Surface Warfare Center, Division Corona .....	\$9,850,000
Connecticut .....	Naval Submarine Base, New Lon- don .....	\$50,302,000
District of Columbia ....	Naval Observatory, Washington ..	\$3,239,000
Florida .....	Eglin Air Force Base .....	\$2,060,000
	Naval Station, Mayport .....	\$6,200,000
Georgia .....	Strategic Weapons Facility Atlan- tic, Kings Bay .....	\$16,000,000
Hawaii .....	Naval Shipyard, Pearl Harbor .....	\$5,100,000
Illinois .....	Naval Training Center, Great Lakes .....	\$74,781,000
Indiana .....	Naval Surface Warfare Center, Crane .....	\$10,580,000
Louisiana .....	Joint Reserve Base/Naval Air Station, New Orleans .....	\$6,030,000
Maryland .....	Naval Surface Warfare Center, Indian Head .....	\$23,000,000
North Carolina .....	Marine Corps Air Station, New River .....	\$35,140,000
	Marine Corps Base, Camp Lejeune .....	\$11,030,000
Nevada .....	Naval Air Station, Fallon .....	\$4,980,000
South Carolina .....	Marine Corps Air Station, Beau- fort .....	\$5,480,000
Virginia .....	Camp Elmore Marine Corps De- tachment .....	\$13,500,000
	Marine Corps Air Facility, Quantico .....	\$21,180,000
	Marine Corps Combat Develop- ment Command, Quantico .....	\$24,140,000
	Naval Air Station, Oceana .....	\$2,770,000
	Naval Amphibious Base, Little Creek .....	\$9,550,000
	Naval Station, Norfolk .....	\$4,330,000
	Naval Weapons Station, York- town .....	\$9,870,000
Washington .....	Naval Air Station, Whidbey Is- land .....	\$1,990,000
	Naval Shipyard, Puget Sound .....	\$23,455,000
	Naval Station, Bremerton .....	\$74,125,000
	Strategic Weapons Facility Pa- cific, Bangor .....	\$131,090,000
	Total .....	\$730,038,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts  
2 appropriated pursuant to the authorization of appropria-

tions in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

Country	Installation or Location	Amount
Bahamas .....	Naval Undersea Warfare Center, Andros Islands .....	\$20,750,000
Diego Garcia .....	Naval Support Facility, Diego Garcia .....	\$17,500,000
Guam .....	Naval Public Works Center, Guam .....	\$20,700,000
	Naval Station, Guam .....	\$12,500,000
Italy .....	Sigonella .....	\$22,550,000
Spain .....	Naval Station, Rota .....	\$32,700,000
	Total .....	\$126,700,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations and in the amount, set forth in the following table:

**Navy: Unspecified Worldwide**

Location	Installation or Location	Amount
	Unspecified Worldwide .....	\$148,640,000
	Total .....	\$148,640,000

**SEC. 2202. FAMILY HOUSING.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the

1 Secretary of the Navy may construct or acquire family  
 2 housing units (including land acquisition and supporting  
 3 facilities) at the installations or locations, for the purposes  
 4 and in the amounts, set forth in the following table:

**Navy: Family Housing**

State	Installation or Location	Purpose	Amount
North Carolina	Marine Corps Air Station, Cherry Point ...	198 Units .....	\$27,002,000
	Total .....	.....	\$27,002,000

5 **SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING**  
 6 **UNITS.**

7 Subject to section 2825 of title 10, United States  
 8 Code, and using amounts appropriated pursuant to the  
 9 authorization of appropriations in section 2204(a)(6)(A),  
 10 the Secretary of the Navy may improve existing military  
 11 family housing units in an amount not to exceed  
 12 \$112,105,000.

13 **SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

14 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds  
 15 are hereby authorized to be appropriated for fiscal years  
 16 beginning after September 30, 2004, for military con-  
 17 struction, land acquisition, and military family housing  
 18 functions of the Department of the Navy in the total  
 19 amount of \$1,913,273,000, as follows:

1           (1) For military construction projects inside the  
2       United States authorized by section 2201(a),  
3       \$631,908,000.

4           (2) For military construction projects outside  
5       the United States authorized by section 2201(b),  
6       \$126,700,000.

7           (3) For the military construction projects at  
8       unspecified worldwide locations authorized by section  
9       2201(c), \$98,560,000.

10          (4) For unspecified minor military construction  
11       projects authorized by section 2805 of title 10,  
12       United States Code, \$12,000,000.

13          (5) For architectural and engineering services  
14       and construction design under section 2807 of title  
15       10, United States Code, \$93,804,000.

16          (6) For military family housing functions:

17                (A) For construction and acquisition, plan-  
18               ning and design, and improvement of military  
19               family housing and facilities, \$139,107,000.

20                (B) For support of military family housing  
21               (including functions described in section 2833  
22               of title 10, United States Code), \$696,304,000.

23          (7) For the construction of increment 2 of the  
24       tertiary sewage treatment plant at Marine Corps  
25       Base, Camp Pendleton, California, authorized by

1 section 2201(a) of the Military Construction Author-  
2 ization Act for Fiscal Year 2004 (division B of Pub-  
3 lic Law 108–136; 117 Stat. 1703), \$25,690,000.

4 (8) For the construction of increment 2 of the  
5 general purpose berthing pier at Naval Weapons  
6 Station, Earle, New Jersey, authorized by section  
7 2201(a) of the Military Construction Authorization  
8 Act of Fiscal Year 2004 (division B of Public Law  
9 108–136; 117 Stat. 1704), \$49,200,000.

10 (9) For the construction of increment 2 of pier  
11 11 replacement at Naval Station, Norfolk, Virginia,  
12 authorized by section 2201(a) of the Military Con-  
13 struction Authorization Act of Fiscal Year 2004 (di-  
14 vision B of Public Law 108–136; 117 Stat. 1704),  
15 \$40,000,000.

16 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
17 PROJECTS.—Notwithstanding the cost variations author-  
18 ized by section 2853 of title 10, United States Code, and  
19 any other cost variation authorized by law, the total cost  
20 of all projects carried out under section 2201 of this Act  
21 may not exceed the sum of the following:

22 (1) The total amount authorized to be appro-  
23 priated under paragraphs (1), (2) and (3) of sub-  
24 section (a).



1           (2) \$21,000,000 (the balance of the amount au-  
2           thorized under section 2201(a) for apron and hangar  
3           recapitalization, Naval Air Facility, El Centro, Cali-  
4           fornia).

5           (3) \$40,000,000 (the balance of the amount au-  
6           thorized under section 2201(a) for construction of  
7           bachelor enlisted quarters, Naval Station, Brem-  
8           erton, Washington).

9           (4) \$95,320,000 (the balance of the amount au-  
10          thorized under section 2201(a) for construction of a  
11          limited area processing and storage complex, Stra-  
12          tegic Weapons Facility Pacific, Bangor, Wash-  
13          ington).

14          (5) \$34,098,000 (the balance of the amount au-  
15          thorized under section 2201(c) for construction of a  
16          White Side complex at an unspecified location world-  
17          wide).

18          (6) \$15,982,000 (the balance of the amount au-  
19          thorized under section 2201(c) for construction of a  
20          presidential helicopter programs support facility at  
21          an unspecified location).

# **TITLE XXIII—AIR FORCE**

## **SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

### **Air Force: Inside the United States**

<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
Alaska .....	Elmendorf Air Force Base .....	\$26,057,000
Arizona .....	Davis-Monthan Air Force Base ...	\$17,029,000
	Luke Air Force Base .....	\$17,900,000
Arkansas .....	Little Rock Air Force Base .....	\$8,931,000
California .....	Beale Air Force Base .....	\$10,186,000
	Edwards Air Force Base .....	\$9,965,000
	Travis Air Force Base .....	\$18,894,000
Colorado .....	Buckley Air Force Base .....	\$12,247,000
Florida .....	Tyndall Air Force Base .....	\$29,162,000
Georgia .....	Moody Air Force Base .....	\$9,600,000
	Robins Air Force Base .....	\$21,570,000
Hawaii .....	Hickam Air Force Base .....	\$25,900,000
Louisiana .....	Barksdale Air Force Base .....	\$13,800,000
Maryland .....	Andrews Air Force Base .....	\$17,100,000
Mississippi .....	Columbus Air Force Base .....	\$7,700,000
Missouri .....	Whiteman Air Force Base .....	\$7,600,000
New Mexico .....	Kirtland Air Force Base .....	\$9,200,000
North Carolina .....	Pope Air Force Base .....	\$15,150,000
Ohio .....	Wright-Patterson Air Force Base	\$9,200,000
South Carolina .....	Shaw Air Force Base .....	\$7,000,000
Tennessee .....	Arnold Air Force Base .....	\$24,500,000
Texas .....	Dyess Air Force Base .....	\$3,300,000
	Lackland Air Force Base .....	\$2,596,000
	Laughlin Air Force Base .....	\$6,900,000
	Sheppard Air Force Base .....	\$50,284,000
Utah .....	Hill Air Force Base .....	\$18,013,000
Wyoming .....	F.E. Warren Air Force Base .....	\$5,500,000
	Total .....	\$405,284,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

Country	Installation or Location	Amount
Germany .....	Ramstein Air Base .....	\$25,404,000
Greenland .....	Thule Air Base .....	\$19,800,000
Guam .....	Andersen Air Force Base .....	\$19,593,000
Italy .....	Aviano Air Base .....	\$6,760,000
Japan .....	Misawa Air Base .....	\$6,700,000
Korea .....	Kunsan Air Base .....	\$37,100,000
	Osan Air Base .....	\$18,600,000
Portugal .....	Lajes Field, Azores .....	\$5,689,000
Spain .....	Naval Station, Rota .....	\$14,153,000
United Kingdom .....	Royal Air Force Lakenheath .....	\$5,500,000
	Total .....	\$159,299,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:

**Air Force: Unspecified Worldwide**

Location	Installation or Location	Amount
	Classified Locations .....	\$26,121,000
	Unspecified Worldwide .....	\$28,794,000
	Total .....	\$54,915,000

1 **SEC. 2302. FAMILY HOUSING.**

2 (a) CONSTRUCTION AND ACQUISITION.—Using  
 3 amounts appropriated pursuant to the authorization of ap-  
 4 propriations in section 2304(a)(6)(A), the Secretary of the  
 5 Air Force may construct or acquire family housing units  
 6 (including land acquisition and supporting facilities) at the  
 7 installations or locations, for the purposes and in the  
 8 amounts, set forth in the following table:

**Air Force: Family Housing**

State	Installation or Location	Purpose	Amount
Arizona .....	Davis-Monthan Air Force Base .....	250 Units .....	\$48,500,000
California .....	Edwards Air Force Base .....	218 Units .....	\$41,202,000
	Vandenberg Air Force Base .....	120 Units .....	\$30,906,000
Florida .....	MacDill Air Force Base .....	61 Units .....	\$21,723,000
	MacDill Air Force Base .....	Housing Maintenance Facility .....	\$1,250,000
Idaho .....	Mountain Home Air Force Base .....	147 Units .....	\$39,333,000
Mississippi .....	Columbus Air Force Base .....	Housing Management Facility .....	\$711,000
Missouri .....	Whiteman Air Force Base .....	160 Units .....	\$37,087,000
Montana .....	Malmstrom Air Force Base .....	115 Units .....	\$29,910,000
North Carolina	Seymour Johnson Air Force Base .....	167 Units .....	\$32,693,000
North Dakota ..	Grand Forks Air Force Base .....	90 Units .....	\$26,169,000
	Minot Air Force Base	142 Units .....	\$37,087,000
South Carolina	Charleston Air Force Base .....	Fire Station ....	\$1,976,000
South Dakota ..	Ellsworth Air Force Base .....	75 Units .....	\$21,482,000
Texas .....	Dyess Air Force Base	127 Units .....	\$28,664,000

**Air Force: Family Housing**—Continued

<b>State</b>	<b>Installation or Location</b>	<b>Purpose</b>	<b>Amount</b>
	Goodfellow Air Force Base .....	127 Units .....	\$20,604,000
Germany .....	Ramstein Air Base .....	144 Units .....	\$57,691,000
Italy .....	Aviano Air Base .....	Housing Office	\$2,542,000
Korea .....	Osan Air Base .....	117 Units .....	\$46,834,000
United Kingdom.	Royal Air Force Lakenheath .....	154 Units .....	\$43,976,000
	Total .....	.....	\$570,340,000

1 (b) PLANNING AND DESIGN.—Using amounts appro-  
2 priated pursuant to the authorization of appropriations in  
3 section 2304(a)(6)(A), the Secretary of the Air Force may  
4 carry out architectural and engineering services and con-  
5 struction design activities with respect to the construction  
6 or improvement of military family housing units in an  
7 amount not to exceed \$38,266,000.

8 **SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING**  
9 **UNITS.**

10 Subject to section 2825 of title 10, United States  
11 Code, and using amounts appropriated pursuant to the  
12 authorization of appropriations in section 2304(a)(6)(A),  
13 the Secretary of the Air Force may improve existing mili-  
14 tary family housing units in an amount not to exceed  
15 \$238,353,000.

1 **SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR**  
2 **FORCE.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds  
4 are hereby authorized to be appropriated for fiscal years  
5 beginning after September 30, 2004, for military con-  
6 struction, land acquisition, and military family housing  
7 functions of the Department of the Air Force in the total  
8 amount of \$2,500,249,000, as follows:

9 (1) For military construction projects inside the  
10 United States authorized by section 2301(a),  
11 \$405,284,000.

12 (2) For military construction projects outside  
13 the United States authorized by section 2301(b),  
14 \$159,299,000.

15 (3) For the military construction projects at  
16 unspecified worldwide locations authorized by section  
17 2301(c), \$54,915,000.

18 (4) For unspecified minor military construction  
19 projects authorized by section 2805 of title 10,  
20 United States Code, \$13,000,000.

21 (5) For architectural and engineering services  
22 and construction design, under section 2807 of title  
23 10, United States Code, \$166,126,000.

24 (6) For military family housing functions:

1 (A) For construction and acquisition, plan-  
 2 ning and design and improvement of military  
 3 family housing and facilities, \$846,959,000.

4 (B) For support of military family housing  
 5 (including functions described in section 2833  
 6 of title 10, United States Code), \$854,666,000.

7 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
 8 PROJECTS.—Notwithstanding the cost variations author-  
 9 ized by section 2853 of title 10, United States Code, and  
 10 any other cost variation authorized by law, the total cost  
 11 of all projects carried out under section 2301 of this Act  
 12 may not exceed the total amount authorized to be appro-  
 13 priated under paragraphs (1), (2), and (3) of subsection  
 14 (a).

## 15 **TITLE XXIV—DEFENSE** 16 **AGENCIES**

17 **SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUC-**  
 18 **TION AND LAND ACQUISITION PROJECTS.**

19 (a) INSIDE THE UNITED STATES.—Using amounts  
 20 appropriated pursuant to the authorization of appropria-  
 21 tions in section 2404(a)(1), the Secretary of Defense may  
 22 acquire real property and carry out military construction  
 23 projects for the installations or locations inside the United  
 24 States, and in the amounts, set forth in the following  
 25 table:

**Defense Agencies: Inside the United States**

<b>Agency</b>	<b>Installation or Location</b>	<b>Amount</b>
Defense Intelligence Agency .....	Bolling Air Force Base, District of Columbia .....	\$6,000,000
Defense Logistics Agency .....	Defense Distribution Depot, New Cumberland, Pennsylvania .....	\$22,300,000
	Defense Distribution Depot, Richmond, Virginia .....	\$10,100,000
	Defense Fuel Support Point, Naval Air Station, Oceana, Virginia .....	\$3,589,000
	Defense Supply Center, Columbus, Ohio .....	\$5,500,000
	Marina Corps Air Station, Cherry Point, North Carolina .....	\$22,700,000
	Naval Air Station, Kingsville, Texas .....	\$3,900,000
	Naval Station, Pearl Harbor, Hawaii .....	\$3,500,000
	Tinker Air Force Base, Oklahoma .....	\$5,400,000
	Travis Air Force Base, California .....	\$15,100,000
Missile Defense Agency	Huntsville, Alabama .....	\$19,560,000
National Security Agency .....	Fort Meade, Maryland .....	\$15,007,000
Special Operations Command .....	Corona, California .....	\$13,600,000
	Fleet Combat Training Center, Dam Neck, Virginia .....	\$5,700,000
	Fort A.P. Hill, Virginia .....	\$1,500,000
	Fort Bragg, North Carolina .....	\$42,888,000
	Fort Stewart/Hunter Army Air Field, Georgia .....	\$17,600,000
	Hurlburt Field, Florida .....	\$2,500,000
	Naval Amphibious Base, Little Creek, Virginia .....	\$33,200,000
	Naval Air Station, North Island, California .....	\$1,000,000
TRICARE Management Activity .....	Buckley Air Force Base, Colorado .....	\$2,100,000
	Defense Language Institute, Presidio, Monterey .....	\$6,700,000
	Fort Belvoir, Virginia .....	\$100,000,000
	Fort Benning, Georgia .....	\$7,100,000
	Langley Air Force Base, Virginia .....	\$50,800,000
	Marine Corps Recruit Depot, Parris Island, South Carolina ..	\$25,000,000
	Naval Air Station, Jacksonville, Florida .....	\$28,438,000
	Total .....	\$470,782,000



(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

<b>Agency</b>	<b>Installation or Location</b>	<b>Amount</b>
Defense Education Activity .....	Grafenwoehr, Germany .....	\$36,247,000
	Naval Station, Guam .....	\$26,964,000
	Vilseck, Germany .....	\$9,011,000
Defense Logistics Agency .....	Defense Fuel Support Point, Lajes Field, Portugal .....	\$19,113,000
	Misawa Air Base, Japan .....	\$19,900,000
Special Operations Command .....	Naval Station, Guam, Marianas Islands .....	\$2,200,000
	Royal Air Force Mildenhall, United Kingdom .....	\$10,200,000
TRICARE Management Activity .....	Diego Garcia .....	\$3,800,000
	Grafenwoehr, Germany .....	\$13,000,000
	Total .....	\$140,435,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(3), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:

**Defense Agencies: Unspecified Worldwide**

<b>Location</b>	<b>Installation or Location</b>	<b>Amount</b>
Special Operations Command .....	Classified Locations .....	\$7,400,000
	Unspecified Worldwide .....	\$2,900,000
	Total .....	\$10,300,000

1 **SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING**  
2 **UNITS.**

3 Subject to section 2825 of title 10, United States  
4 Code, and using amounts appropriated pursuant to the  
5 authorization of appropriations in section 2404(a)(9)(A),  
6 the Secretary of Defense may improve existing military  
7 family housing units in an amount not to exceed \$49,000.

8 **SEC. 2403. ENERGY CONSERVATION PROJECTS.**

9 Using amounts appropriated pursuant to the author-  
10 ization of appropriations in section 2404(a)(7), the Sec-  
11 retary of Defense may carry out energy conservation  
12 projects under section 2865 of title 10, United States  
13 Code, in the amount of \$50,000,000.

14 **SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DE-**  
15 **FENSE AGENCIES.**

16 (a) MODIFICATION OF INSIDE THE UNITED STATES  
17 PROJECTS.—Funds are hereby authorized to be appro-  
18 priated for fiscal years beginning after September 30,  
19 2004, for military construction, land acquisition, and mili-  
20 tary family housing functions of the Department of De-

1 fense (other than the military departments) in the total  
2 amount of \$1,089,063,000, as follows:

3 (1) For military construction projects inside the  
4 United States authorized by section 2401(a),  
5 \$413,782,000.

6 (2) For military construction projects outside  
7 the United States authorized by section 2401(b),  
8 \$140,435,000.

9 (3) For the military construction projects at  
10 unspecified worldwide locations authorized by section  
11 2401(c), \$10,300,000.

12 (4) For unspecified minor military construction  
13 projects under section 2805 of title 10, United  
14 States Code, \$20,938,000.

15 (5) For contingency construction projects of the  
16 Secretary of Defense under section 2804 of title 10,  
17 United States Code, \$10,000,000.

18 (6) For architectural and engineering services  
19 and construction design under section 2807 of title  
20 10, United States Code, \$63,482,000.

21 (7) For Energy Conservation projects author-  
22 ized by section 2404 of this Act, \$50,000,000.

23 (8) For base closure and realignment activities  
24 as authorized by the Defense Base Closure and Re-  
25 alignment Act of 1990 (part A of title XXIX of

1       Public Law 101–510; 10 U.S.C. 2687 note),  
2       \$246,116,000.

3           (9) For military family housing functions:

4               (A) For improvement of military family  
5       housing and facilities, \$49,000.

6               (B) For support of military family housing  
7       (including functions described in section 2833  
8       of title 10, United States Code), \$49,575,000.

9               (C) For credit to the Department of De-  
10      fense Family Housing Improvement Fund es-  
11      tablished by section 2883(a)(1) of title 10,  
12      United States Code, \$2,500,000.

13          (10) For the construction of phase 6 of an am-  
14      munition demilitarization facility at Pueblo Depot  
15      Activity, Colorado, authorized by section 2401(a) of  
16      the Military Construction Authorization Act for Fis-  
17      cal Year 1997 (division B of Public Law 104–201;  
18      110 Stat. 2775), as amended by section 2406 of the  
19      Military Construction Authorization Act for Fiscal  
20      Year 2000 (division B of Public Law 106–65; 113  
21      Stat. 839), and section 2407 of the Military Con-  
22      struction Authorization Act for Fiscal Year 2003  
23      (division B of Public Law 107–314; 116 Stat.  
24      2698), \$44,792,000.

1           (11) For the construction of phase 5 of an am-  
2           munition demilitarization facility at Blue Grass  
3           Army Depot, Kentucky, authorized by section  
4           2401(a) of the Military Construction Authorization  
5           Act for Fiscal Year 2000 (division B of Public Law  
6           106–65; 113 Stat. 835), as amended by section  
7           2405 of the Military Construction Authorization Act  
8           of 2002 (division B of Public Law 107–107; 115  
9           Stat. 1298), and section 2405 of the Military Con-  
10          struction Authorization Act for Fiscal Year 2003  
11          (division B of Public Law 107–314; 116 Stat.  
12          2698), \$37,094,000.

13          (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
14          PROJECTS.—Notwithstanding the cost variations author-  
15          ized by section 2853 of title 10, United States Code, and  
16          any other cost variation authorized by law, the total cost  
17          of all projects carried out under section 2401 of this Act  
18          may not exceed the sum of the following:

19                (1) The total amount authorized to be appro-  
20                priated under paragraphs (1), (2) and (3) of sub-  
21                section (a).

22                (2) \$57,000,000 (the balance of the amount au-  
23                thorized under section 2401(a) for hospital replace-  
24                ment, Fort Belvoir, Virginia).

1 **TITLE XXV—NORTH ATLANTIC**  
2 **TREATY ORGANIZATION SE-**  
3 **CURITY INVESTMENT PRO-**  
4 **GRAM**

5 **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND**  
6 **ACQUISITION PROJECTS.**

7       The Secretary of Defense may make contributions for  
8 the North Atlantic Treaty Organization Security Invest-  
9 ment Program as provided in section 2806 of title 10,  
10 United States Code, in an amount not to exceed the sum  
11 of the amount authorized to be appropriated for this pur-  
12 pose in section 2502 and the amount collected from the  
13 North Atlantic Treaty Organization as a result of con-  
14 struction previously financed by the United States.

15 **SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

16       Funds are hereby authorized to be appropriated for  
17 fiscal years beginning after September 30, 2004, for con-  
18 tributions by the Secretary of Defense under section 2806  
19 of title 10, United States Code, for the share of the United  
20 States of the cost of projects for the North Atlantic Treaty  
21 Organization Security Investment Program authorized by  
22 section 2501, in the amount of \$165,800,000.

**TITLE XXVI—GUARD AND  
RESERVE FORCES FACILITIES**

**SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$393,225,000; and

(B) for the Army Reserve, \$116,955,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, \$30,955,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$184,620,000; and

(B) for the Air Force Reserve, \$107,520,000.

1 **TITLE XXVII—EXPIRATION AND**  
2 **EXTENSION OF AUTHORIZA-**  
3 **TIONS**

4 **SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND**  
5 **AMOUNTS REQUIRED TO BE SPECIFIED BY**  
6 **LAW.**

7 (a) EXPIRATION OF AUTHORIZATIONS AFTER THREE  
8 YEARS.—Except as provided in subsection (b), all author-  
9 izations contained in titles XXI through XXVI for military  
10 construction projects, land acquisition, family housing  
11 projects and facilities, and contributions to the North At-  
12 lantic Treaty Organization Security Investment Program  
13 (and authorizations of appropriations therefor) shall ex-  
14 pire on the later of—

15 (1) October 1, 2007; or

16 (2) the date of the enactment of an Act author-  
17 izing funds for military construction for fiscal year  
18 2008.

19 (b) EXCEPTION.—Subsection (a) shall not apply to  
20 authorizations for military construction projects, land ac-  
21 quisition, family housing projects and facilities, and con-  
22 tributions to the North Atlantic Treaty Organization Se-  
23 curity Investment program (and authorizations of appro-  
24 priations therefor), for which appropriated funds have  
25 been obligated before the later of—



1 (1) October 1, 2007; or

2 (2) the date of the enactment of an Act author-  
 3 izing funds for fiscal year 2008 for military con-  
 4 struction projects, land acquisition, family housing  
 5 projects and facilities, or contributions to the North  
 6 Atlantic Treaty Organization Security Investment  
 7 program.

8 **SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN**  
 9 **FISCAL YEAR 2002 PROJECTS.**

10 (a) EXTENSION.—Notwithstanding section 2701 of  
 11 the Military Construction Authorization Act for Fiscal  
 12 Year 2002 (division B of Public Law 107–107; 115 Stat.  
 13 1301), authorizations set forth in the tables in subsection  
 14 (b), as provided in section 2101 or 2302 of that Act, shall  
 15 remain in effect until October 1, 2005, or the date of the  
 16 enactment of an Act authorizing funds for military con-  
 17 struction for fiscal year 2006, whichever is later.

18 (b) TABLES.—The tables referred to in subsection (a)  
 19 are as follows:

**Army: Extension of 2002 Project Authorizations**

State	Installation or Location	Project	Amount
Alaska .....	Fort Wainwright	Power plant cool- ing tower .....	\$23,000,000
Hawaii .....	Pohakuloa Train- ing Area .....	Parker Ranch land acquisition	\$1,500,000

**Air Force: Extension of 2002 Project Authorizations**

<b>State</b>	<b>Installation or Location</b>	<b>Project</b>	<b>Amount</b>
Colorado .....	Buckley Air Force Base .....	Family housing (55 Units) .....	\$11,400,000
Louisiana .....	Barksdale Air Force Base .....	Family housing (56 Units) .....	\$7,300,000

1 **SEC. 2703. EXTENSION AND RENEWAL OF AUTHORIZATIONS**  
2 **OF CERTAIN FISCAL YEAR 2001 PROJECTS.**

3 (a) EXTENSION AND RENEWAL.—Notwithstanding  
4 section 2701 of the Military Construction Authorization  
5 Act for Fiscal Year 2001 (division B of the Floyd D.  
6 Spence National Defense Authorization Act for Fiscal  
7 Year 2001 (as enacted into law by Public Law 106–398;  
8 114 Stat. 1654A–407)), authorizations set forth in the ta-  
9 bles in subsection (b), as provided in section 2102 or 2401  
10 of that Act and, in the case of the authorization set forth  
11 in the first table in subsection (b), extended by section  
12 2702 of the Military Construction Authorization Act for  
13 Fiscal Year 2004 (division B of Public Law 108–136; 117  
14 Stat. 1716), shall remain in effect until October 1, 2005,  
15 or the date of the enactment of an Act authorizing funds  
16 for military construction for fiscal year 2006, whichever  
17 is later.

18 (b) TABLES.—The tables referred to in subsection (a)  
19 are as follows:

**Army: Extension of 2001 Project Authorization**

<b>State</b>	<b>Installation or Location</b>	<b>Project</b>	<b>Amount</b>
South Carolina ....	Fort Jackson .....	Family housing (1 unit) .....	\$250,000

**Defense Agencies: Extension of 2001 Project Authorizations**

<b>Agency</b>	<b>Installation or Location</b>	<b>Project</b>	<b>Amount</b>
Defense Finance and Accounting Service .....	Kleber Kaserne, Germany .....	Building renovation .....	\$7,400,000
Defense Education Activity .....	Osan Air Base, Korea .....	Osan Elementary School addition	\$843,000

**1 SEC. 2704. EFFECTIVE DATE.**

2       Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI

3 of this Act shall take effect on the later of—

4               (1) October 1, 2004; or

5               (2) the date of the enactment of this Act.

1           **TITLE XXVIII—GENERAL**  
2                   **PROVISIONS**  
3   **Subtitle A—Military Construction**  
4       **Program and Military Family**  
5       **Housing Changes**

6   **SECTION 2801. INCREASE IN CERTAIN THRESHOLDS FOR**  
7                   **CARRYING OUT UNSPECIFIED MINOR MILI-**  
8                   **TARY CONSTRUCTION PROJECTS.**

9           (a) ADVANCE APPROVAL AND CONGRESSIONAL NOTI-  
10   FICATION THRESHOLD.—Subsection (b)(1) of section  
11   2805 of title 10, United States Code, is amended by strik-  
12   ing “\$750,000” and inserting “\$1,000,000”.

13           (b) USE OF OPERATION AND MAINTENANCE FUNDS  
14   THRESHOLD.—Subsection (c) of such section is  
15   amended—

16               (1) by striking paragraph (1) and inserting the  
17               following new paragraph:

18               “(1) Except as provided in paragraphs (2) and (3),  
19   the Secretary concerned may spend from appropriations  
20   available for operation and maintenance amounts nec-  
21   essary to carry out an unspecified minor military construc-  
22   tion project costing not more than \$1,500,000.”; and

23               (2) in paragraph (3), by striking “limitations”  
24               and inserting “limitation”.

1 **SEC. 2802. ASSESSMENT OF VULNERABILITY OF MILITARY**  
2 **INSTALLATIONS TO TERRORIST ATTACK AND**  
3 **ANNUAL REPORT ON MILITARY CONSTRUC-**  
4 **TION REQUIREMENTS RELATED TO**  
5 **ANTITERRORISM AND FORCE PROTECTION.**

6 (a) ANNUAL ASSESSMENT AND REPORT.—Section  
7 2808 of title 10, United States Code, is amended by add-  
8 ing at the end the following new subsection:

9 “(d) ANTITERRORISM AND FORCE PROTECTION AS-  
10 SESSMENTS AND MILITARY CONSTRUCTION REQUIRE-  
11 MENTS.—(1) The Secretary of Defense shall develop com-  
12 mon guidance and criteria to be used by the Secretary  
13 concerned—

14 “(A) to assess the vulnerability of military in-  
15 stallations located inside and outside of the United  
16 States to terrorist attack;

17 “(B) to develop construction standards designed  
18 to reduce the vulnerability of structures to terrorist  
19 attack and improve the security of the occupants of  
20 such structures;

21 “(C) to prepare and carry out military con-  
22 struction projects, such as gate and fenceline con-  
23 struction, to improve the physical security of mili-  
24 tary installations; and

1           “(D) to assist in prioritizing such projects with-  
2           in the military construction budget of each of the  
3           armed forces.

4           “(2) The Secretary of Defense shall require vulner-  
5           ability assessments of military installations to be con-  
6           ducted, at regular intervals, using the criteria developed  
7           under paragraph (1).

8           “(3) As part of the budget materials submitted to  
9           Congress in connection with the submission of the budget  
10          for a fiscal year pursuant to section 1105 of title 31, but  
11          in no case later than March 15 of each year, the Secretary  
12          of Defense shall submit a report describing—

13               “(A) the location and results of the vulner-  
14              ability assessments conducted during the preceding  
15              fiscal year;

16               “(B) the military construction requirements an-  
17              ticipated to be necessary during the next three fiscal  
18              years to improve the physical security of military in-  
19              stallations; and

20               “(C) the extent to which funds are not re-  
21              quested in the Department of Defense budget for  
22              the next fiscal year to meet those requirements.

23           “(4) In the case of the report required under para-  
24          graph (3) to be submitted in 2006, the Secretary of De-  
25          fense shall include a certification by the Secretary that

1 since September 11, 2001, vulnerability assessments have  
 2 been undertaken at all major military installations. The  
 3 Secretary shall indicate the basis by which the Secretary  
 4 differentiated between major and nonmajor military in-  
 5 stallations for purposes of making the certification.”.

6 (b) **STYLISTIC AND CLERICAL AMENDMENTS.—**(1)

7 The heading of such section is amended to read as follows:

8 **“§ 2808. Construction authority related to declaration**  
 9 **of war or national emergency; construc-**  
 10 **tion requirements related to**  
 11 **antiterrorism and force protection”.**

12 (2) Such section is further amended—

13 (A) in subsection (a), by inserting “CONSTRUC-  
 14 TION AUTHORITY; LIMITATION.—” after “(a)”;

15 (B) in subsection (b), by inserting “CONGRES-  
 16 SIONAL NOTIFICATION.—” after “(b)”;

17 (C) in subsection (c), by inserting “TERMI-  
 18 NATION.—” after “(c)”.

19 (3) The table of sections at the beginning of chapter  
 20 169 of such title is amended by striking the item relating  
 21 to section 2808 and inserting the following new item:

“2808. Construction authority related to declaration of war or national emer-  
 gency; construction requirements related to antiterrorism and  
 force protection.”.

1 **SEC. 2803. CHANGE IN THRESHOLD FOR CONGRESSIONAL**  
2 **NOTIFICATION REGARDING USE OF OPER-**  
3 **ATION AND MAINTENANCE FUNDS FOR FA-**  
4 **CILITY REPAIR.**

5 Section 2811(d) of title 10, United States Code, is  
6 amended by striking “\$10,000,000” and inserting  
7 “\$7,500,000”.

8 **SEC. 2804. REPORTING REQUIREMENTS REGARDING MILI-**  
9 **TARY FAMILY HOUSING REQUIREMENTS FOR**  
10 **GENERAL OFFICERS AND FLAG OFFICERS.**

11 (a) ANNUAL REPORT ON COST OF GENERAL AND  
12 FLAG OFFICERS QUARTERS.—Section 2831 of title 10,  
13 United States Code, is amended by adding at the end the  
14 following new subsection:

15 “(e) ANNUAL REPORT OF COST OF GENERAL OFFI-  
16 CERS AND FLAG OFFICERS QUARTERS.—As part of the  
17 budget materials submitted to Congress in connection with  
18 the submission of the budget for a fiscal year pursuant  
19 to section 1105 of title 31, but in no case later than March  
20 30 of each year, the Secretary of Defense shall submit  
21 a report—

22 “(1) identifying family housing units used, or  
23 intended for use, as quarters for general officers or  
24 flag officers for which the total operation and main-  
25 tenance costs, utility costs, and repair costs are an-



1        anticipated to exceed \$20,000 in the next fiscal year;  
2        and

3                “(2) specifying the total of such costs for each  
4        unit of family housing identified under paragraph  
5        (1).”.

6        (b) REPORT ON NEED FOR SUCH QUARTERS IN NA-  
7        TIONAL CAPITAL REGION.—The Secretary of Defense  
8        shall prepare a report analyzing anticipated needs in the  
9        National Capital Region for family housing units for gen-  
10       eral officers and flag officers. In conducting the analysis,  
11       the Secretary shall consider the extent of available housing  
12       in the National Capital Region and the necessity of pro-  
13       viding housing for general officers and flag officers in se-  
14       cure locations.

15       (c) REPORT ON WORLD-WIDE INVENTORY OF SUCH  
16       QUARTERS.—The Secretary of Defense shall prepare a re-  
17       port containing a worldwide inventory of family housing  
18       units for general officers and flag officers and identifying  
19       annual expenditures for each such unit for operation and  
20       maintenance, utilities, and repair for each for the fiscal  
21       years 2000 through 2004.

22       (d) SUBMISSION OF REPORTS.—The reports required  
23       by subsections (b) and (c) shall be submitted to the con-  
24       gressional defense committees not later than March 30,  
25       2005.

1 (e) DEFINITIONS.—In this section:

2 (1) The terms “general officer” and “flag offi-  
3 cer” have the meanings given such terms in section  
4 101(b) of title 10, United States Code.

5 (2) The term “National Capital Region” has  
6 the meaning given such term in section 2674(f) of  
7 such title.

8 **SEC. 2805. CONGRESSIONAL NOTIFICATION OF DEVIATIONS**  
9 **FROM AUTHORIZED COST VARIATIONS FOR**  
10 **MILITARY CONSTRUCTION PROJECTS AND**  
11 **MILITARY FAMILY HOUSING PROJECTS.**

12 Section 2853(c)(3) of title 10, United States Code,  
13 is amended by inserting before the period at the end the  
14 following: “or, if over sooner, a period of 14 days has  
15 elapsed after the date on which a copy of the notification  
16 is provided in an electronic medium pursuant to section  
17 480 of this title”.

18 **SEC. 2806. REPEAL OF LIMITATION ON USE OF ALTER-**  
19 **NATIVE AUTHORITY FOR ACQUISITION AND**  
20 **IMPROVEMENT OF MILITARY FAMILY HOUS-**  
21 **ING.**

22 Effective October 1, 2005, subsection (g) of section  
23 2883 of title 10, United States Code, is amended to read  
24 as follows:

1       “(g) LIMITATION ON USE OF AUTHORITY TO AC-  
2       QUIRE OR CONSTRUCT MILITARY UNACCOMPANIED  
3       HOUSING.—The total value in budget authority of all con-  
4       tracts and investments undertaken using the authorities  
5       provided in this subchapter for the acquisition or construc-  
6       tion of military unaccompanied housing shall not exceed  
7       \$150,000,000.”.

8       **SEC. 2807. TEMPORARY AUTHORITY TO ACCELERATE DE-**  
9                   **SIGN EFFORTS FOR MILITARY CONSTRUC-**  
10                  **TION PROJECTS CARRIED OUT USING DE-**  
11                  **SIGN-BUILD SELECTION PROCEDURES.**

12       Section 2305a of title 10, United States Code, is  
13       amended by adding at the end the following new sub-  
14       section:

15       “(f) SPECIAL AUTHORITY FOR MILITARY CONSTRUC-  
16       TION PROJECTS.—(1) The Secretary of a military depart-  
17       ment, and the Secretary of Defense with respect to mat-  
18       ters concerning the Defense Agencies, may use funds  
19       available to the Secretary under section 2807(a) or  
20       18233(e) of this title to accelerate the design effort in con-  
21       nection with a military construction project for which the  
22       two-phase selection procedures described in subsection (c)  
23       are used to select the contractor for both the design and  
24       construction portion of the project before the project is  
25       specifically authorized by law and before funds are appro-

1 priated for the construction portion of the project. Not-  
2 withstanding the limitations contained in such sections,  
3 use of such funds for the design portion of a military con-  
4 struction project may continue despite the subsequent au-  
5 thorization of the project. The advance notice requirement  
6 of section 2807(b) of this title shall continue to apply  
7 whenever the estimated cost of the design portion of the  
8 project exceeds the amount specified in such section.

9       “(2) Any military construction contract that provides  
10 for an accelerated design effort, as authorized by para-  
11 graph (1), shall include as a condition of the contract that  
12 the liability of the United States in a termination for con-  
13 venience may not exceed costs above the costs attributable  
14 to the final design of the project.

15       “(3) Not more than 36 military construction projects  
16 containing the accelerated design effort authorized by  
17 paragraph (1) may be carried out.

18       “(4) Not later than March 1, 2007, the Secretary of  
19 Defense shall submit to the congressional defense commit-  
20 tees a report evaluating the usefulness of the authority  
21 provided by this subsection in expediting the design and  
22 construction of military construction projects. The author-  
23 ity provided by this subsection expires September 30,  
24 2008, except that, if the report required by this paragraph

1 is not submitted by March 1, 2007, the authority shall  
2 expire on that date.”.

3 **SEC. 2808. EXCHANGE OR SALE OF RESERVE COMPONENT**  
4 **FACILITIES TO ACQUIRE REPLACEMENT FA-**  
5 **CILITIES.**

6 Section 18233 of title 10, United States Code, is  
7 amended by adding at the end the following new sub-  
8 section:

9 “(g)(1) The Secretary of Defense may convey, by ex-  
10 change or sale, an existing facility of a reserve component  
11 of the armed forces for the purpose of acquiring a replace-  
12 ment facility under this section or using the proceeds from  
13 the sale to acquire a replacement facility under this sec-  
14 tion, if the Secretary determines it is in the best interests  
15 of the United States to acquire the replacement facility  
16 by such exchange or sale. The United States shall receive  
17 funds or a replacement facility, or a combination of both,  
18 having a total value at least equal to the fair market value  
19 of the conveyed facility.

20 “(2) Acquisition of a replacement facility under this  
21 subsection may be accomplished by construction, expan-  
22 sion, rehabilitation, or conversion and must result in a  
23 fully equipped and operational replacement facility. Noth-  
24 ing in this subsection prohibits the Secretary of Defense  
25 from contributing additional funds, in accordance with

1 this section, to obtain a fully equipped and operational re-  
2 placement facility.

3 “(3) Funds received under this subsection shall be  
4 deposited in a separate account and remain available to  
5 the Secretary of Defense, without appropriation, for use  
6 in accordance with this subsection. Any funds received  
7 under this subsection in connection with a conveyance in  
8 excess of the funds required to obtain a fully equipped and  
9 operational replacement facility for the conveyed facility  
10 may be used by the Secretary for the purposes of sub-  
11 section (a).”.

12 **SEC. 2809. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED**  
13 **AUTHORITY TO USE OPERATION AND MAIN-**  
14 **TENANCE FUNDS FOR CONSTRUCTION**  
15 **PROJECTS OUTSIDE THE UNITED STATES.**

16 Section 2808 of the Military Construction Authoriza-  
17 tion Act for Fiscal Year 2004 (division B of Public Law  
18 108–136; 117 Stat. 1723) is amended—

19 (1) in subsections (a) and (d), by striking “fis-  
20 cal year 2004” both places it appears and inserting  
21 “fiscal years 2004 and 2005”; and

22 (2) in subsection (c)(1), by striking “in fiscal  
23 year 2004” and inserting “in a fiscal year”.

1 **SEC. 2810. CONSIDERATION OF COMBINATION OF MILITARY**  
2 **MEDICAL TREATMENT FACILITIES AND**  
3 **HEALTH CARE FACILITIES OF DEPARTMENT**  
4 **OF VETERANS AFFAIRS.**

5 (a) DEPARTMENT OF DEFENSE CONSIDERATION OF  
6 JOINT CONSTRUCTION.—(1) Subchapter I of chapter 169  
7 of title 10, United States Code, is amended by adding at  
8 the end the following new section:

9 **“§ 2816. Consideration of joint construction and use**  
10 **of military medical treatment facilities**  
11 **and health care facilities of the Depart-**  
12 **ment of Veterans Affairs**

13 “In the case of the budget submitted under section  
14 1105 of title 31 for any fiscal year, the Secretary of De-  
15 fense shall include in the budget justification materials  
16 submitted to Congress in support of the budget a certifi-  
17 cation that, in evaluating for inclusion in the budget for  
18 that fiscal year any military construction project for con-  
19 struction in the United States (or a territory or possession  
20 of the United States) of a new military medical treatment  
21 facility, the Secretary, after consulting with the Secretary  
22 of Veterans Affairs, evaluated the feasibility of carrying  
23 out the project so as to establish with the Department of  
24 Veterans Affairs a joint medical facility that—

“(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.”.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“2816. Consideration of joint construction and use of military medical treatment facilities and health care facilities of the Department of Veterans Affairs.”.

(b) DEPARTMENT OF VETERANS AFFAIRS CONSIDERATION OF JOINT CONSTRUCTION.—Section 8104(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(9) In the case of a prospectus proposing the construction of a new or replacement medical facility, the Secretary’s certification that the Secretary, after consulting with the Secretary of Defense, evaluated the feasibility of carrying out the project so as to establish with the Department of Defense a joint medical facility that—

“(A) could serve as a facility for health re-  
sources sharing between the Department of De-  
fense and the Department of Veterans Affairs;  
and



1 “(B) would be no more costly to each De-  
 2 partment to construct and operate than sepa-  
 3 rate facilities for each Department.”.

## 4 **Subtitle B—Real Property and** 5 **Facilities Administration**

### 6 **SEC. 2811. INCREASE IN CERTAIN THRESHOLDS FOR RE-** 7 **PORTING REAL PROPERTY TRANSACTIONS.**

8 (a) GENERAL NOTICE AND WAIT THRESHOLD.—  
 9 Subsection (a) of section 2662 of title 10, United States  
 10 Code, is amended by striking “\$750,000” each place it  
 11 appears and inserting “\$1,500,000”.

12 (b) ANNUAL REPORT ON MINOR TRANSACTIONS  
 13 THRESHOLD.—Subsection (b) of such section is amended  
 14 by striking “subsection (a) that involve an estimated value  
 15 of more than \$250,000, but not more than \$750,000” and  
 16 inserting “such subsection that involve an estimated value  
 17 of more than \$500,000, but not more than the amount  
 18 specified in such subsection”.

19 (c) NOTICE AND WAIT THRESHOLD FOR CERTAIN  
 20 GSA LEASES.—Subsection (e) of such section is amended  
 21 by striking “\$750,000” and inserting “\$1,500,000”.

22 (d) THRESHOLD FOR ACQUISITION OF LOW-COST IN-  
 23 TERESTS IN LAND.—Subsection (a) of section 2672 of  
 24 such title is amended to read as follows:

1       “(a) ACQUISITION AUTHORITY.—The Secretary of a  
2 military department may acquire any interest in land  
3 that—

4               “(1) the Secretary determines is needed in the  
5 interest of national defense; and

6               “(2) does not cost more than \$1,500,000, exclu-  
7 sive of administrative costs and the amounts of any  
8 deficiency judgments.”.

9       (e) TREATMENT MULTIPLE PARCELS UNDER LOW-  
10 COST ACQUISITION AUTHORITY.—Subsection (b) of such  
11 section is amended to read as follows:

12       “(b) TREATMENT OF MULTIPLE PARCELS.—This  
13 section does not authorize the acquisition, as a part of the  
14 same project, of more than one parcel of land unless—

15               “(1) the parcels are noncontiguous; or

16               “(2) if contiguous, the total cost for the acqui-  
17 sition of all of the contiguous parcels does not cost  
18 more than the amount specified in subsection  
19 (a)(2).”.

20 **SEC. 2812. REORGANIZATION OF EXISTING ADMINISTRA-**  
21 **TIVE PROVISIONS RELATING TO REAL PROP-**  
22 **ERTY TRANSACTIONS.**

23       (a) LIMITATION ON COMMISSIONS.—(1) Section 2661  
24 of title 10, United States Code, is amended by adding at  
25 the end the following new subsection:

1       “(c) COMMISSIONS ON LAND PURCHASE CON-  
2 TRACTS.—The maximum amount payable as a commission  
3 on a contract for the purchase of land from funds appro-  
4 priated for the Department of Defense is two percent of  
5 the purchase price.”.

6       (2) Section 2666 of such title is repealed.

7       (b) REPEAL OF OBSOLETE AUTHORITY TO ACQUIRE  
8 LAND FOR TIMBER PRODUCTION.—Section 2664 of such  
9 title is repealed.

10       (c) AVAILABILITY OF FUNDS FOR ACQUISITION OF  
11 CERTAIN INTERESTS IN REAL PROPERTY.—(1) Section  
12 2672 of such title is amended by adding at the end the  
13 following new subsection:

14       “(d) AVAILABILITY OF FUNDS.—Appropriations  
15 available to the Department of Defense for operation and  
16 maintenance or construction may be used for the acqui-  
17 sition of land or interests in land under this section.”.

18       (2) Section 2673 of such title is repealed.

19       (3) Section 2675 of such title is amended—

20               (A) by inserting before “The Secretary” the fol-  
21 lowing “(a) LEASE AUTHORITY; DURATION.—”; and

22               (B) by adding at the end the following new sub-  
23 section:

24       “(b) AVAILABILITY OF FUNDS.—Appropriations  
25 available to the Department of Defense for operation and

1 maintenance or construction may be used for the acqui-  
 2 tion of interests in land under this section.”.

3 (d) **STYLISTIC AND CLERICAL AMENDMENTS.—**(1)

4 Section 2661 of such title is further amended—

5 (A) in subsection (a), by inserting “AVAIL-  
 6 ABILITY OF OPERATION AND MAINTENANCE  
 7 FUNDS.—” after “(a)” ; and

8 (B) in subsection (b), by inserting “LEASING  
 9 AND ROAD MAINTENANCE AUTHORITY.—” after  
 10 “(b)”.

11 (2) The table of sections at the beginning of chapter  
 12 159 of such title is amended by striking the items relating  
 13 to sections 2664, 2666, and 2673.

14 **SEC. 2813. TREATMENT OF MONEY RENTALS FROM GOLF**  
 15 **COURSE AT ROCK ISLAND ARSENAL, ILLI-**  
 16 **NOIS.**

17 (a) **SUPPORT OF MWR ACTIVITIES.—**Section  
 18 2667(d) of title 10, United States Code, is amended—

19 (1) in paragraph (1)(B)—

20 (A) by redesignating clause (ii) as clause  
 21 (iii); and

22 (B) by inserting after clause (i) the fol-  
 23 lowing new clause:

1           “(ii) Money rentals deposited in a non-  
2           appropriated morale, welfare, and recreation account  
3           under paragraph (3).”; and

4           (2) by inserting after paragraph (2) the fol-  
5           lowing new paragraph:

6           “(3) The Secretary of the Army may deposit up to  
7           50 percent of the money rentals received by the United  
8           States from a lease involving the golf course at Rock Is-  
9           land Arsenal, Illinois, in the nonappropriated morale, wel-  
10          fare, and recreation account for that installation, to be  
11          used for quality-of-life programs at that installation.”.

12          (b) EFFECTIVE DATE.—Paragraph (3) of section  
13          2667(d) of title 10, United States Code, as added by sub-  
14          section (a), shall apply to money rentals referred to in  
15          such paragraph received by the United States after Sep-  
16          tember 30, 2004.

17      **SEC. 2814. NUMBER OF CONTRACTS AUTHORIZED DEPART-**  
18                              **MENT-WIDE UNDER DEMONSTRATION PRO-**  
19                              **GRAM ON REDUCTION IN LONG-TERM FACIL-**  
20                              **ITY MAINTENANCE COSTS.**

21          Section 2814 of the National Defense Authorization  
22          Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C.  
23          2809 note) is amended—

1           (1) in subsection (a), by striking “or the Sec-  
2       retary of a military department” and inserting “and  
3       the Secretaries of the military departments”;

4           (2) in subsection (b)(1), by striking “12 con-  
5       tracts per military department” and inserting “36  
6       contracts”; and

7           (3) in subsection (b)(2), by striking “the date  
8       of the enactment of the Bob Stump National De-  
9       fense Authorization Act for Fiscal Year 2003” and  
10      inserting “December 2, 2002”.

11 **SEC. 2815. REPEAL OF COMMISSION ON REVIEW OF OVER-**  
12 **SEAS MILITARY FACILITY STRUCTURE OF**  
13 **THE UNITED STATES.**

14       Section 128 of the Military Construction Appropria-  
15      tions Act, 2004 (Public Law 108–132; 117 Stat. 1382;  
16      10 U.S.C. 111 note), is repealed.

17 **SEC. 2816. DESIGNATION OF AIRMEN LEADERSHIP SCHOOL**  
18 **AT LUKE AIR FORCE BASE, ARIZONA, IN**  
19 **HONOR OF JOHN J. RHODES, A FORMER MI-**  
20 **NORITY LEADER OF THE HOUSE OF REP-**  
21 **RESENTATIVES.**

22       The Airmen Leadership School at Luke Air Force  
23      Base, Arizona, building 156, shall be known and des-  
24      ignated as the “John J. Rhodes Airmen Leadership  
25      School”. Any reference to such facility in any law, regula-

tion, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. Rhodes Airmen Leadership School.

**SEC. 2817. ELIMINATION OF REVERSIONARY INTERESTS  
CLOUDING UNITED STATES TITLE TO PROP-  
ERTY USED AS NAVY HOMEPORTS.**

(a) **AUTHORITY TO ACQUIRE COMPLETE TITLE.**—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

(b) **CONSIDERATION.**—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest. In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any im-

1   provements acquired by the holder as part of the reversion  
2   of the real property, and the long-term use and ultimate  
3   disposition of the real property if the United States were  
4   to acquire all right, title, and interest in and to the real  
5   property subject to the reversionary interest.

6       (2) Cash payments are not authorized as consider-  
7   ation for the acquisition of reversionary interests under  
8   subsection (a).

9   **SEC. 2818. REPORT ON FEASIBILITY OF VETERANS MEMO-**  
10                   **RIAL AT MARINE CORPS AIR STATION, EL**  
11                   **TORO, CALIFORNIA.**

12       Not later than 30 days after the date of the enact-  
13   ment of this Act, the Secretary of the Navy shall submit  
14   to Congress a report on whether the City of Irvine's antici-  
15   pated future uses of the former MCAS El Toro property  
16   would permit the establishment and maintenance of a vet-  
17   erans memorial at no cost to the Federal Government.



## **Subtitle C—Base Closure and Realignment**

### **SEC. 2821. TWO-YEAR POSTPONEMENT OF 2005 BASE CLOSURE AND REALIGNMENT ROUND AND SUBMISSION OF REPORTS REGARDING FUTURE INFRASTRUCTURE REQUIREMENTS FOR THE ARMED FORCES.**

(a) TWO-YEAR POSTPONEMENT IN SUBMITTAL OF BASE CLOSURE AND REALIGNMENT RECOMMENDATIONS.—Section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1345), is amended—

(1) in the section heading, by striking “**2005**” and inserting “**2007**”; and

(2) in subsection (a), by striking “May 16, 2005,” and inserting “May 16, 2007,”.

(b) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of section 2914 of the Defense Base Closure and Realignment Act of 1990 is amended—

(1) in paragraphs (1) and (2), by striking “September 8, 2005” both places it appears and inserting “September 8, 2007”; and

1 (2) in paragraph (6)—

2 (A) by striking “in 2005” and inserting  
3 “under this section”; and

4 (B) by striking “July 1, 2005” and insert-  
5 ing “July 1, 2007”.

6 (c) REVIEW BY PRESIDENT AND TRANSMITTAL TO  
7 CONGRESS.—Subsection (e) of section 2914 of the De-  
8 fense Base Closure and Realignment Act of 1990 is  
9 amended—

10 (1) in paragraph (1)—

11 (A) by striking “in 2005” and inserting  
12 “under this section”; and

13 (B) by striking “September 23, 2005” and  
14 inserting “September 23, 2007”;

15 (2) in paragraph (2), by striking “October 20,  
16 2005” and inserting “October 20, 2007”; and

17 (3) in paragraph (3)—

18 (A) by striking “November 7, 2005” and  
19 inserting “November 7, 2007”; and

20 (B) by striking “in 2005” and inserting  
21 “in 2007”.

22 (d) NEW FORCE STRUCTURE PLAN AND INFRA-  
23 STRUCTURE INVENTORY; RECERTIFICATION OF NEED  
24 FOR ADDITIONAL ROUND.—Section 2912 of the Defense  
25 Base Closure and Realignment Act of 1990 (part A of title

1 XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as  
2 added by section 3001 of the National Defense Authoriza-  
3 tion Act for Fiscal Year 2002 (Public Law 107–107; 115  
4 Stat. 1342), is amended—

5 (1) in the section heading, by striking “**2005**”  
6 and inserting “**2007**”;

7 (2) by striking “fiscal year 2005” each place it  
8 appears and inserting “fiscal year 2007”;

9 (3) in subsection (b)(1), by inserting “for fiscal  
10 year 2007” after “subsection (a)”;

11 (4) in subsections (b)(2) and (d), by striking  
12 “in 2005” each place it appears and inserting  
13 “under section 2914”;

14 (5) in subsection (d), by striking “March 15,  
15 2005” both places it appears and inserting “March  
16 15, 2007”;

17 (6) in subsection (d)(4), by striking “calendar  
18 year 2005 and shall terminate on April 15, 2006”  
19 and inserting “calendar year 2007 and shall termi-  
20 nate on April 15, 2008”; and

21 (7) in subsection (d)(5), by striking “second  
22 session of the 108th Congress for the activities of  
23 the Commission in 2005” and inserting “second ses-  
24 sion of the 109th Congress for the activities of the  
25 Commission under section 2914”.

1       (e) INFRASTRUCTURE-RELATED REPORTING RE-  
2 QUIREMENTS; TERMINATION OF BASE CLOSURE  
3 ROUND.—Section 2912 of the Defense Base Closure and  
4 Realignment Act of 1990 is further amended by adding  
5 at the end the following new subsection:

6       “(e) INFRASTRUCTURE-RELATED REPORTS.—

7               “(1) REQUIRED REPORTS.—The Secretary shall  
8       prepare the following reports related to infrastruc-  
9       ture requirements for the Armed Forces:

10               “(A) A report containing the Integrated  
11       Global Presence and Basing Strategy of the De-  
12       partment of Defense, including the location of  
13       long-term overseas installations, installations to  
14       be used for rotational purposes, and forward  
15       operating locations, anticipated rotational plans  
16       and policies, and domestic and overseas infra-  
17       structure requirements associated with the  
18       strategy.

19               “(B) A report describing the anticipated  
20       infrastructure requirements associated with the  
21       probable end-strength levels and major military  
22       force units (including land force divisions, car-  
23       rier and other major combatant vessels, air  
24       wings, and other comparable units) for each of

1 the Armed Forces resulting from force trans-  
2 formation.

3 “(C) A report describing the anticipated  
4 infrastructure requirements related to expected  
5 changes in the active component versus reserve  
6 component personnel mix of the Armed Forces.

7 “(D) A report describing the anticipated  
8 infrastructure requirements associated with the  
9 so-called ‘10–30–30 objective’ of the Secretary  
10 to ensure that military forces are capable of de-  
11 ployment overseas within 10 days in sufficient  
12 strength to defeat an enemy within 30 days and  
13 be ready for redeployment within 30 days after  
14 the end of combat operations.

15 “(E) A report containing the results of a  
16 complete reassessment of the infrastructure  
17 necessary to support the force structure de-  
18 scribed in the force-structure plan prepared  
19 under paragraph (1) of subsection (a) and de-  
20 scribing any resulting excess infrastructure and  
21 infrastructure capacity, which were previously  
22 required by paragraph (2) of such subsection.  
23 The reassessment shall be based on actual in-  
24 frastructure, facility, and space requirements

1           for the Armed Forces rather than a compara-  
2           tive study between 1989 and 2003.

3           “(F) A report describing the anticipated  
4           infrastructure requirements associated with the  
5           assessment prepared by the Secretary pursuant  
6           to section 2822 of the National Defense Au-  
7           thorization Act for Fiscal Year 2004 (Public  
8           Law 108–136; 117 Stat. 1726), in which Con-  
9           gress required the Secretary to assess the prob-  
10          able threats to national security and determine  
11          the potential, prudent, surge requirements for  
12          the Armed Forces and military installations to  
13          meet those threats.

14          “(2) TIME FOR SUBMISSION OF REPORTS.—The  
15          reports required by paragraph (1) shall be submitted  
16          to the congressional defense committees only during  
17          the period beginning on January 1, 2006, and end-  
18          ing on March 15, 2006.

19          “(3) TERMINATION OF ROUND FOR FAILURE TO  
20          SUBMIT REPORTS AS REQUIRED.—If the reports re-  
21          quired by paragraph (1) are not submitted during  
22          the period specified in paragraph (2), the process for  
23          the making of recommendations to the Congress for  
24          the closure or realignment of military installations  
25          and the selection of installations for closure or re-

1 alignment under this part in 2007 shall be termi-  
2 nated.”.

3 (f) CONFORMING AMENDMENTS.—(1) Section  
4 2904(a)(3) of the Defense Base Closure and Realignment  
5 Act of 1990 is amended by striking “in the 2005 report”  
6 and inserting “in a report submitted after 2001”.

7 (2) Section 2906(e) of such Act is amended by strik-  
8 ing “2005” and inserting “2007”.

9 (3) Section 2906A of such Act is amended—

10 (A) in the section heading, by striking “**2005**”  
11 and inserting “**2007**”; and

12 (B) by striking “2005” each place it appears  
13 and inserting “2007”.

14 (4) Section 2909(a) of such Act is amended by strik-  
15 ing “2006” and inserting “2008”.

16 **SEC. 2822. ESTABLISHMENT OF SPECIFIC DEADLINE FOR**  
17 **SUBMISSION OF REVISIONS TO FORCE-**  
18 **STRUCTURE PLAN AND INFRASTRUCTURE IN-**  
19 **VENTORY FOR NEXT BASE CLOSURE ROUND.**

20 Section 2912(a)(4) of the Defense Base Closure and  
21 Realignment Act of 1990 (part A of title XXIX of Public  
22 Law 101–510; 10 U.S.C. 2687 note) is amended by strik-  
23 ing “as part of the budget justification document sub-  
24 mitted to Congress for fiscal year 2006.” and inserting  
25 “not later than March 15 of the year in which the Sec-

1   retary will submit, consistent with subsection (e) of this  
2   section, the list of the military installations inside the  
3   United States that the Secretary recommends for closure  
4   or realignment. No revision of the force-structure plan or  
5   infrastructure inventory is authorized after that March 15  
6   date.”.

7   **SEC. 2823. SPECIFICATION OF FINAL SELECTION CRITERIA**  
8                   **FOR NEXT BASE CLOSURE ROUND.**

9           (a) FINDINGS.—Congress finds the following:

10               (1) Title XXX of the National Defense Author-  
11               ization Act for Fiscal Year 2002 (Public Law 107–  
12               107; 115 Stat. 1342) amended the Defense Base  
13               Closure and Realignment Act of 1990 (part A of  
14               title XXIX of Public Law 101–510; 10 U.S.C. 2687  
15               note) to authorize the Secretary of Defense to con-  
16               duct an additional round of base realignments and  
17               closures.

18               (2) In section 2822 of the National Defense  
19               Authorization Act for Fiscal Year 2004 (Public Law  
20               108–136; 117 Stat. 1726), approved November 24,  
21               2003, Congress required the Secretary of Defense to  
22               assess the probable threats to national security and  
23               determine the potential, prudent, surge requirements  
24               for the Armed Forces and military installations to  
25               meet those threats. Such section specifically requires



1 the Secretary of Defense to use the determination of  
2 surge requirements in exercising the authority of the  
3 Secretary to conduct the next round of base realign-  
4 ments and closures.

5 (3) Section 2913 of the Defense Base Closure  
6 and Realignment Act of 1990, as added by title  
7 XXX of the National Defense Authorization Act for  
8 Fiscal Year 2002, specified the process by which the  
9 Secretary of Defense was to prepare the criteria to  
10 be used by the Secretary in making recommenda-  
11 tions for the next round of base realignments and  
12 closures and listed certain requirements the Sec-  
13 retary had to comply with as part of the process, in-  
14 cluding the advance publication of the proposed cri-  
15 teria and the solicitation and consideration of public  
16 comments.

17 (4) In subsection (e) of such section, Congress  
18 required the Secretary of Defense to publish in the  
19 Federal Register and transmit to Congress not later  
20 than February 16, 2004, the final criteria intended  
21 to be used by the Secretary in making recommenda-  
22 tions for the next round of base realignments and  
23 closures. Pursuant to such subsection, the Secretary  
24 of Defense published the final selection criteria in

1 the Federal Register on February 12, 2004 (69 Fed.  
2 Reg. 6948).

3 (5) In addition to specifically reserving its right  
4 to disapprove the final selection criteria, Congress  
5 may modify or otherwise amend the criteria by Act  
6 of Congress.

7 (b) CONGRESSIONAL SPECIFICATION OF FINAL  
8 BRAC SELECTION CRITERIA.—Section 2913 of the De-  
9 fense Base Closure and Realignment Act of 1990 (part  
10 A of title XXIX of Public Law 101–510; 10 U.S.C. 2687  
11 note), as added by section 3002 of the National Defense  
12 Authorization Act for Fiscal Year 2002 (Public Law 107–  
13 107; 115 Stat. 1344), is amended to read as follows:

14 **“SEC. 2913. FINAL SELECTION CRITERIA FOR ADDITIONAL**  
15 **ROUND OF BASE CLOSURES AND REALIGN-**  
16 **MENTS.**

17 “(a) FINAL SELECTION CRITERIA.—The final cri-  
18 teria to be used by the Secretary in making recommenda-  
19 tions for the closure or realignment of military installa-  
20 tions inside the United States under this part in any addi-  
21 tional round of base closures and realignments are as fol-  
22 lows:

23 “(1) The current and future mission require-  
24 ments and the impact on operational readiness of  
25 the total force of the Department of Defense, includ-

1       ing the impact on joint warfighting, training, readi-  
2       ness, and research, development, test, and evaluation  
3       of weapons systems and equipment.

4               “(2) The availability and condition of land, fa-  
5       cilities, infrastructure, and associated air and water  
6       space (including preservation of training areas suit-  
7       able for maneuver by ground, naval, or air forces  
8       throughout a diversity of climate and terrain areas,  
9       the preservation of testing ranges able to accommo-  
10      date current or future military weapons systems and  
11      equipment, and the preservation of staging areas for  
12      the use of the Armed Forces in homeland defense  
13      missions) at both existing and potential receiving lo-  
14      cations.

15              “(3) The ability to accommodate contingency,  
16      mobilization, and future total force requirements at  
17      both existing and potential receiving locations to  
18      support operations, training, maintenance, and re-  
19      pair.

20              “(4) Preservation of land, air, and water space,  
21      facilities, and infrastructure necessary to support  
22      training and operations of military forces determined  
23      to be surge requirements by the Secretary of De-  
24      fense, as required by section 2822 of the National

1       Defense Authorization Act for Fiscal Year 2004  
2       (Public Law 108–136; 117 Stat. 1726).

3               “(5) The extent and timing of potential costs  
4       and savings of base realignment and closure actions  
5       on the entire Federal budget, as well as the Depart-  
6       ment of Defense, including the number of years, be-  
7       ginning with the date of completion of the closure or  
8       realignment, for the savings to exceed the costs.  
9       Costs shall include those costs related to potential  
10      environmental restoration, waste management, and  
11      environmental compliance activities.

12              “(6) The economic impact on existing commu-  
13      nities in the vicinity of military installations.

14              “(7) The ability of the infrastructure of both  
15      the existing and potential receiving communities to  
16      support forces, missions, and personnel, including  
17      quality of living standards for members of the  
18      Armed Forces and their dependents.

19              “(8) The environmental impact on receiving lo-  
20      cations.

21              “(b) PRIORITY GIVEN TO MILITARY VALUE.—In rec-  
22      ommending military installations for closure or realign-  
23      ment, the Secretary shall give priority consideration to the  
24      first four criteria specified in subsection (a).

1       “(c) RELATION TO OTHER MATERIALS.—The final  
2 selection criteria specified in subsection (a) shall be the  
3 only criteria to be used, along with the force-structure  
4 plan and infrastructure inventory referred to in section  
5 2912, in making recommendations for the closure or re-  
6 alignment of military installations inside the United States  
7 under this part after December 31, 2003.

8       “(d) RELATION TO CRITERIA FOR EARLIER  
9 ROUNDS.—Section 2903(b), and the selection criteria pre-  
10 pared under such section, shall not apply with respect to  
11 the process of making recommendations for the closure or  
12 realignment of military installations after December 31,  
13 2003.”.

14       (c) CONFORMING AMENDMENTS.—The Defense Base  
15 Closure and Realignment Act of 1990 is amended—

16               (1) in section 2912(c)(1)(A), by striking “cri-  
17 teria prepared under section 2913” and inserting  
18 “criteria specified in section 2913”; and

19               (2) in section 2914(a), by striking “criteria pre-  
20 pared by the Secretary under section 2913” and in-  
21 serting “criteria specified in section 2913”.

1 **SEC. 2824. REQUIREMENT FOR UNANIMOUS VOTE OF DE-**  
2 **FENSE BASE CLOSURE AND REALIGNMENT**  
3 **COMMISSION TO ADD TO OR OTHERWISE EX-**  
4 **PAND CLOSURE AND REALIGNMENT REC-**  
5 **COMMENDATIONS MADE BY SECRETARY OF**  
6 **DEFENSE.**

7 Section 2914(d) of the Defense Base Closure and Re-  
8 alignment Act of 1990 (part A of title XXIX of Public  
9 Law 101–510; 10 U.S.C. 2687 note), as added by section  
10 3003 of the Military Construction Authorization Act for  
11 Fiscal Year 2002 (division B of Public Law 107–107; 155  
12 Stat, 1346) and amended by section 2854 of the Bob  
13 Stump National Defense Authorization Act for Fiscal  
14 Year 2003 (Public Law 107–314; 116 Stat. 2728), is  
15 amended—

16 (1) in paragraph (3), by striking “TO ADD” and  
17 inserting “TO CONSIDER ADDITIONS”; and

18 (2) by striking paragraph (5) and inserting the  
19 following new paragraph:

20 “(5) REQUIREMENTS TO EXPAND CLOSURE OR  
21 REALIGNMENT RECOMMENDATIONS.—In the report  
22 required under section 2903(d)(2)(A) that is to be  
23 transmitted under paragraph (1), the Commission  
24 may not make a change in the recommendations of  
25 the Secretary that would close a military installation  
26 not recommended for closure by the Secretary,

1 would realign a military installation not rec-  
2 ommended for closure or realignment by the Sec-  
3 retary, or would expand the extent of the realign-  
4 ment of a military installation recommended for re-  
5 alignment by the Secretary unless—

6 “(A) at least two members of the Commis-  
7 sion visit the military installation before the  
8 date of the transmittal of the report; and

9 “(B) the decision of the Commission to  
10 make the change to recommend the closure of  
11 the military installation, the realignment of the  
12 installation, or the expanded realignment of the  
13 installation is unanimous.”.

14 **SEC. 2825. ADHERENCE TO CERTAIN AUTHORITIES ON**  
15 **PRESERVATION OF MILITARY DEPOT CAPA-**  
16 **BILITIES DURING ANY SUBSEQUENT ROUND**  
17 **OF BASE CLOSURES AND REALIGNMENTS.**

18 The Defense Base Closure and Realignment Act of  
19 1990 (part A of title XXIX of Public Law 101–510; 10  
20 U.S.C. 2687 note) is amended by adding at the end the  
21 following new section:

1 **“SEC. 2915. ADHERENCE TO CERTAIN AUTHORITIES ON**  
2 **PRESERVATION OF MILITARY DEPOT CAPA-**  
3 **BILITIES DURING ANY SUBSEQUENT ROUND**  
4 **OF BASE CLOSURES AND REALIGNMENTS.**

5 “(a) ADHERENCE REQUIRED.—(1) Any base closure  
6 and realignment actions under section 2914 or subsequent  
7 round of base closure and realignment, and any actions  
8 to carry out the closure or realignment of military installa-  
9 tions as a result of such actions, shall reflect a strict ad-  
10 herence to the provisions of title 10, United States Code,  
11 for the maintenance of government-owned, government-  
12 operated depot-level maintenance, repair, and logistics ca-  
13 pabilities within the Department of Defense, including the  
14 provisions of chapter 146 of such title and other applicable  
15 provisions.

16 “(2) No action to carry out the closure or realign-  
17 ment of military installations in any base closures and re-  
18 alignments under this part after the date of the enactment  
19 of this section may include a waiver authorized by para-  
20 graph (2) or (3) of section 2464(b) or section 2466(b) of  
21 title 10, United States Code.

22 “(b) BASE CLOSURE AND REALIGNMENT ACTIONS  
23 DEFINED.—In this section, the term ‘base closure and re-  
24 alignment actions’ means the following:

25 “(1) The preparation by the Secretary of De-  
26 fense of recommendations on installations for closure



1 or realignment under this part or any subsequent  
2 base closure law.

3 “(2) The review by the Commission of the rec-  
4 ommendations referred to in paragraph (1).

5 “(3) The review by the President of the rec-  
6 ommendations referred to in paragraphs (1) and  
7 (2).”.

## 8 **Subtitle D—Land Conveyances**

### 9 **PART I—ARMY CONVEYANCES**

#### 10 **SEC. 2831. TRANSFER OF ADMINISTRATIVE JURISDICTION,**

11 **DEFENSE SUPPLY CENTER, COLUMBUS,**

12 **OHIO.**

13 (a) TRANSFER REQUIRED.—As soon as practicable  
14 after the date of the enactment of this Act, the Secretary  
15 of the Army shall transfer, without reimbursement, to the  
16 administrative jurisdiction of the Secretary of Veterans  
17 Affairs a parcel of real property consisting of approxi-  
18 mately 20 acres and comprising a portion of the Defense  
19 Supply Center in Columbus, Ohio, for the purpose of per-  
20 mitting the Secretary of Veterans Affairs to use the prop-  
21 erty as the site for an outpatient clinic.

22 (b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The  
23 Secretary of the Army shall require the Secretary of Vet-  
24 erans Affairs to cover costs to be incurred by the Secretary  
25 of the Army, or to reimburse the Secretary of the Army

1 for costs incurred by the Secretary of the Army, to carry  
2 out the conveyance under subsection (a), including survey  
3 costs, costs related to environmental documentation, and  
4 other administrative costs related to the conveyance. If  
5 amounts are collected from the Secretary of Veterans Af-  
6 fairs in advance of the Secretary of the Army incurring  
7 the actual costs, and the amount collected exceeds the  
8 costs actually incurred by the Secretary of the Army to  
9 carry out the conveyance, the Secretary of the Army shall  
10 refund the excess amount to the Secretary of Veterans Af-  
11 fairs.

12 (2) Amounts received as reimbursement under para-  
13 graph (1) shall be credited to the fund or account that  
14 was used to cover the costs incurred by the Secretary of  
15 the Army in carrying out the conveyance. Amounts so  
16 credited shall be merged with amounts in such fund or  
17 account, and shall be available for the same purposes, and  
18 subject to the same conditions and limitations, as amounts  
19 in such fund or account.

20 (c) DESCRIPTION OF REAL PROPERTY.—The exact  
21 acreage and legal description of the real property to be  
22 transferred under subsection (a) shall be determined by  
23 a survey satisfactory to the Secretary of the Army.

1 **SEC. 2832. LAND CONVEYANCE, FORT HOOD, TEXAS.**

2 (a) CONVEYANCE AUTHORIZED.—The Secretary of  
3 the Army may convey to the Texas A&M University Sys-  
4 tem of the State of Texas (in this section referred to as  
5 the “University System”), all right, title, and interest of  
6 the United States in and to a parcel of real property, in-  
7 cluding improvements thereon, consisting of approxi-  
8 mately 662 acres at Fort Hood, Texas, for the sole pur-  
9 pose of permitting the University System to establish on  
10 the property an upper level (junior, senior and graduate)  
11 university that will be State-supported, separate from  
12 other universities of the University System, and des-  
13 ignated as Texas A&M University, Central Texas.

14 (b) CONSIDERATION.—(1) As consideration for the  
15 conveyance under subsection (a), the University System  
16 shall pay to the United States an amount equal to the  
17 fair market value of the conveyed property, as determined  
18 pursuant to an appraisal acceptable to the Secretary.

19 (2) In lieu of all or a portion of the cash consideration  
20 required by paragraph (1), the Secretary may accept in-  
21 kind consideration, including the conveyance by the Uni-  
22 versity System of real property acceptable to the Sec-  
23 retary.

24 (c) CONDITION OF CONVEYANCE.—The conveyance  
25 under subsection (a) shall be subject to the condition that  
26 the Secretary determine that the conveyance of the prop-

erty and the establishment of a university on the property will not adversely impact the operation of Robert Grey Army Airfield, which is located on Fort Hood approximately one mile from the property authorized for conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University System.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2833. LAND CONVEYANCE, ARMY NATIONAL GUARD FACILITY, SEATTLE, WASHINGTON.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Washington (in this section referred to as the “State”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9.747 acres in Seattle, Washington, and comprising a portion of the National Guard Facility, Pier 91, for the purpose of permit-

1   ting the State to convey the facility unencumbered for eco-  
2   nomic development purposes.

3       (b) ADMINISTRATIVE EXPENSES.—(1) The State  
4   shall reimburse the Secretary for the administrative ex-  
5   penses incurred by the Secretary in carrying out the con-  
6   veyance under subsection (a), including expenses related  
7   to surveys and legal descriptions, boundary  
8   monumentation, environmental surveys, necessary docu-  
9   mentation, travel, and deed preparation.

10      (2) Section 2695(c) of title 10, United States Code,  
11   shall apply to any amounts received by the Secretary as  
12   reimbursement under this subsection.

13      (c) EXEMPTION FROM FEDERAL SCREENING.—The  
14   conveyance authorized by subsection (a) is exempt from  
15   the requirement to screen the property for other Federal  
16   use pursuant to sections 2693 and 2696 of title 10, United  
17   States Code.

18      (d) DESCRIPTION OF PROPERTY.—The exact acreage  
19   and legal description of the property to be conveyed under  
20   subsection (a) shall be determined by a survey satisfactory  
21   to the Secretary. The cost of the survey shall be borne  
22   by the United States, subject to the requirement for reim-  
23   bursement under subsection (b).

24      (e) ADDITIONAL TERMS AND CONDITIONS.—The  
25   Secretary may require such additional terms and condi-

1 tions in connection with the conveyance under subsection  
2 (a) as the Secretary considers appropriate to protect the  
3 interests of the United States.

4 **SEC. 2834. MODIFICATION OF LAND EXCHANGE AND CON-**  
5 **SOLIDATION, FORT LEWIS, WASHINGTON.**

6 (a) PROPERTY TO BE TRANSFERRED TO SECRETARY  
7 OF THE INTERIOR IN TRUST.—Subsection (a)(1) of sec-  
8 tion 2837 of the Military Construction Authorization Act  
9 for Fiscal Year 2002 (division B of Public Law 107–107;  
10 115 Stat. 1315) is amended—

11 (1) by striking “may convey to” and inserting  
12 “may transfer to the Secretary of the Interior, in  
13 trust for”; and

14 (2) by striking “Washington, in” and all that  
15 follows through the period and inserting “Wash-  
16 ington. The Secretary of the Army may make the  
17 transfer under the preceding sentence, and the Sec-  
18 retary of the Interior may accept the property trans-  
19 ferred in trust for the Nisqually Tribe under the  
20 preceding sentence, only in conjunction with the con-  
21 veyance described in subsection (b)(2).”.

22 (b) INCREASE IN ACREAGE TO BE TRANSFERRED.—  
23 Such subsection is further amended by striking “138  
24 acres” and inserting “168 acres”.

1       (c) QUALIFICATION ON PROPERTY TO BE TRANS-  
2       FERRED.—Subsection (a)(2) of such section is amended—

3               (1) by striking “conveyance” and inserting  
4       “transfer”; and

5               (2) by striking “or the right of way described  
6       in subsection (c)” and inserting “located on the real  
7       property transferred under that paragraph”.

8       (d) CONSIDERATION.—Subsection (b) of such section  
9       is amended—

10              (1) in the matter preceding paragraph (1), by  
11       striking “conveyance” and inserting “transfer”; and

12              (2) in paragraph (2), by striking “fee title over  
13       the acquired property to the Secretary” and insert-  
14       ing “to the United States fee title to the property  
15       acquired under paragraph (1), free from all liens,  
16       encumbrances or other interests other than those, if  
17       any, acceptable to the Secretary of the Army”.

18       (e) TREATMENT OF EXISTING PERMIT RIGHTS;  
19       GRANT OF EASEMENT.—Such section is further  
20       amended—

21              (1) by redesignating subsections (d) and (e) as  
22       subsections (e) and (f), respectively; and

23              (2) by inserting after subsection (c) the fol-  
24       lowing new subsection:

1       “(d) TREATMENT OF EXISTING PERMIT RIGHTS;  
2 GRANT OF EASEMENT.—(1) The transfer under sub-  
3 section (a) recognizes and preserves to the Bonneville  
4 Power Administration, in perpetuity and without the right  
5 of revocation except as provided in paragraph (2), rights  
6 in existence at the time of the conveyance under the per-  
7 mit dated February 4, 1949, as amended January 4,  
8 1952, between the Department of the Army and the Bon-  
9 neville Power Administration with respect to any portion  
10 of the property transferred under subsection (a) upon  
11 which the Bonneville Power Administration retains trans-  
12 mission facilities. The rights recognized and preserved in-  
13 clude the right to upgrade those transmission facilities.

14       “(2) The permit rights recognized and preserved  
15 under paragraph (1) shall terminate only upon the Bonne-  
16 ville Power Administration’s relocation of the transmission  
17 facilities referred to in paragraph (1), and then only with  
18 respect to that portion of those transmission facilities that  
19 are relocated.

20       “(3) The Secretary of the Interior, as trustee for the  
21 Nisqually Tribe, shall grant to the Bonneville Power Ad-  
22 ministration, without consideration and subject to the  
23 same rights recognized and preserved in paragraph (1),  
24 such additional easements across the property transferred  
25 under subsection (a) as the Bonneville Power Administra-



1 tion considers necessary to accommodate the relocation or  
2 reconnection of Bonneville Power Administration trans-  
3 mission facilities from property owned by the Tribe and  
4 held by the Secretary of the Interior in trust for the  
5 Tribe.”.

6 (f) CONFORMING AMENDMENTS.—(1) Subsection (c)  
7 of such section is amended by inserting “of the Army”  
8 after “Secretary”.

9 (2) Subsection (e) of such section (as redesignated  
10 by subsection (e)(1)) is amended—

11 (A) by striking “conveyed” and inserting  
12 “transferred”;

13 (B) by inserting “of the Army” after “Sec-  
14 retary”; and

15 (C) by striking “the recipient of the property  
16 being surveyed” and inserting “the Tribe, in the  
17 case of the transfer under subsection (a), and the  
18 Secretary of the Army, in the case of the acquisition  
19 under subsection (b)”.

20 (3) Subsection (f) of such section (as redesignated by  
21 subsection (e)(1)) is amended—

22 (A) by inserting “of the Army” after “Sec-  
23 retary” both place it appears; and

1 (B) by striking “conveyances under this sec-  
2 tion” and inserting “transfer under subsection (a)  
3 and conveyances under subsections (b)(2) and (c)”.

4 **PART II—NAVY CONVEYANCES**

5 **SEC. 2841. TRANSFER OF JURISDICTION, NEBRASKA AVE-**  
6 **NUE NAVAL COMPLEX, DISTRICT OF COLUM-**  
7 **BIA.**

8 (a) **TRANSFER REQUIRED.**—Except as provided in  
9 subsection (b), the Secretary of the Navy shall transfer  
10 to the administrative jurisdiction of the Administrator of  
11 General Services the parcel of Department of the Navy  
12 real property in the District of Columbia known as the  
13 Nebraska Avenue Complex for the purpose of permitting  
14 the Administrator to use the Complex to accommodate the  
15 Department of Homeland Security. The Complex shall be  
16 transferred in its existing condition.

17 (b) **AUTHORITY TO RETAIN MILITARY FAMILY**  
18 **HOUSING.**—At the option of the Secretary of the Navy,  
19 the Secretary may retain administrative jurisdiction over  
20 that portion of the Complex that, as of the date of the  
21 enactment of this Act, is being used to provide Navy fam-  
22 ily housing.

23 (c) **TIME FOR TRANSFER.**—Not later than January  
24 1, 2005, the Secretary of the Navy shall complete the  
25 transfer of administrative jurisdiction over the portion of

1 the Complex required to be transferred under subsection  
2 (a).

3 (d) RELOCATION OF NAVY ACTIVITIES.—As part of  
4 the transfer of the Complex under subsection (a), the Sec-  
5 retary of the Navy shall relocate Department of the Navy  
6 activities at the Complex to other locations.

7 (e) PAYMENT OF INITIAL RELOCATION COSTS.—  
8 Subject to the availability of appropriations for this pur-  
9 pose, the Secretary of the Department of Homeland Secu-  
10 rity shall be responsible for the payment of—

11 (1) all reasonable costs, including costs to move  
12 furnishings and equipment, related to the initial re-  
13 location of Department of the Navy activities from  
14 the Complex under subsection (d); and

15 (2) all reasonable costs incident to the initial  
16 occupancy by such activities of interim leased space,  
17 including rental costs for the first year.

18 (f) PAYMENT OF LONG-TERM RELOCATION COSTS.—

19 (1) SENSE OF CONGRESS REGARDING PAY-  
20 MENT.—It is the sense of the Congress that the Sec-  
21 retary of the Navy should receive, from Federal  
22 agencies other than the Department of Defense,  
23 funds authorized and appropriated for the purpose  
24 of covering all reasonable costs, not paid under sub-  
25 section (e), that are incurred or will be incurred by

1 the Secretary to permanently relocate Department of  
2 the Navy activities from the Complex under sub-  
3 section (d).

4 (2) SUBMISSION OF COST ESTIMATES.—As soon  
5 as practicable after the date of the enactment of this  
6 Act , the Secretary of the Navy shall submit to the  
7 Director of the Office of Management and Budget  
8 and the Congress an initial estimate of the amounts  
9 that will be necessary to cover the costs to perma-  
10 nently relocate Department of the Navy activities  
11 from the portion of the Complex to be transferred  
12 under subsection (a). The Secretary shall include in  
13 the estimate anticipated land acquisition and con-  
14 struction costs. The Secretary shall revise the esti-  
15 mate as necessary whenever information regarding  
16 the actual costs for the relocation is obtained.

17 (g) TREATMENT OF FUNDS.—(1) Funds received by  
18 the Secretary of the Navy, from sources outside the De-  
19 partment of Defense, to relocate Department of the Navy  
20 activities from the Complex shall be used to pay the costs  
21 incurred by the Secretary to permanently relocate Depart-  
22 ment of the Navy activities from the Complex. A military  
23 construction project carried out using such funds is  
24 deemed to be an authorized military construction project  
25 for purposes of section 2802 of title 10, United States

1 Code. Section 2822 of such title shall continue to apply  
2 to any military family housing unit proposed to be con-  
3 structed or acquired using such funds.

4 (2) When a decision is made to carry out a military  
5 construction project using such funds, the Secretary of the  
6 Navy shall notify Congress in writing of that decision, in-  
7 cluding the justification for the project and the current  
8 estimate of the cost of the project. The project may then  
9 be carried out only after the end of the 21-day period be-  
10 ginning on the date the notification is received by Con-  
11 gress or, if earlier, the end of the 14-day period beginning  
12 on the date on which a copy of the notification is provided  
13 in an electronic medium pursuant to section 480 of title  
14 10, United States Code.

15 (h) EFFECT OF FAILURE TO RECEIVE SUFFICIENT  
16 FUNDS FOR RELOCATION COSTS.—

17 (1) CONGRESSIONAL NOTIFICATION.—At the  
18 end of the three-year period beginning on the date  
19 of the transfer of the Complex under subsection (a),  
20 the Secretary of the Navy shall submit to Congress  
21 a report—

22 (A) specifying the total amount needed to  
23 cover both the initial and permanent costs of  
24 relocating Department of the Navy activities

1 from the portion of the Complex transferred  
2 under subsection (a);

3 (B) specifying the total amount of the ini-  
4 tial relocation costs paid by the Secretary of the  
5 Department of Homeland Security under sub-  
6 section (e); and

7 (C) specifying the total amount of appro-  
8 priated funds received by the Secretary of the  
9 Navy, from sources outside the Department of  
10 Defense, to cover the permanent relocation  
11 costs.

12 (2) ROLE OF OMB.—The Secretary of the Navy  
13 shall obtain the assistance and concurrence of the  
14 Director of the Office of Management and Budget in  
15 determining the total amount needed to cover both  
16 the initial and permanent costs of relocating Depart-  
17 ment of the Navy activities from the portion of the  
18 Complex transferred under subsection (a), as re-  
19 quired by paragraph (1)(A).

20 (3) CERTIFICATION REGARDING RELOCATION  
21 COSTS.—Not later than 30 days after the date on  
22 which the report under paragraph (1) is required to  
23 be submitted to Congress, the President shall certify  
24 to Congress whether the amounts specified in the re-  
25 port pursuant to subparagraphs (B) and (C) of such

1 paragraph are sufficient to cover both the initial and  
2 permanent costs of relocating Department of the  
3 Navy activities from the portion of the Complex  
4 transferred under subsection (a). The President  
5 shall make this certification only after consultation  
6 with the Chairman and ranking minority member of  
7 the Committee on Armed Services and the Com-  
8 mittee on Appropriations of the House of Represent-  
9 atives and the Chairman and ranking minority mem-  
10 ber of the Committee on Armed Services and the  
11 Committee on Appropriations of the Senate.

12 (4) RESTORATION OF COMPLEX TO NAVY.—If  
13 the President certifies under paragraph (3) that  
14 amounts referred to in subparagraphs (B) and (C)  
15 of paragraph (1) are insufficient to cover Navy relo-  
16 cation costs, the Administrator of General Services,  
17 at the request of the Secretary of the Navy, shall re-  
18 store the Complex to the administrative jurisdiction  
19 of the Secretary of the Navy.

20 (5) NAVY SALE OF COMPLEX.—If administra-  
21 tive jurisdiction over the Complex is restored to the  
22 Secretary of the Navy, the Secretary shall convey  
23 the Complex by competitive sale. Amounts received  
24 by the United States as consideration from any sale  
25 under this paragraph shall be deposited in the spe-

1        cial account in the Treasury established pursuant to  
2        section 572(b) of title 40, United States Code.

3    **SEC. 2842. LAND CONVEYANCE, NAVY PROPERTY, FORMER**  
4                    **FORT SHERIDAN, ILLINOIS.**

5        (a) CONVEYANCE AUTHORIZED.—The Secretary of  
6    the Navy may convey, without consideration, to the State  
7    of Illinois, a political subdivision of the State, or a non-  
8    profit land conservation organization (in this section col-  
9    lectively referred to as the “grantee”), all right, title, and  
10   interest of the United States in and to certain environ-  
11   mentally sensitive land at the former Fort Sheridan, Illi-  
12   nois, consisting of mostly bluffs and ravines, for the pur-  
13   pose of ensuring the permanent protection of the lands.

14        (b) REVERSIONARY INTEREST.—If the Secretary de-  
15   termines at any time that the real property conveyed  
16   under subsection (a) is not being used or maintained in  
17   accordance with the purpose of the conveyance specified  
18   in such subsection, all right, title, and interest in and to  
19   all or any portion of the property shall revert, at the option  
20   of the Secretary, to the United States, and the United  
21   States shall have the right of immediate entry onto the  
22   property. Any determination of the Secretary under this  
23   subsection shall be made on the record after an oppor-  
24   tunity for a hearing.



1       (c) RECONVEYANCE AUTHORIZED.—The Secretary  
2 may permit the grantee to convey the real property con-  
3 veyed under subsection (a) to another eligible entity de-  
4 scribed in such subsection, subject to the same covenants  
5 and terms and conditions as provided in the deed from  
6 the United States.

7       (d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The  
8 Secretary shall require the grantee to cover costs to be  
9 incurred by the Secretary, or to reimburse the Secretary  
10 for costs incurred by the Secretary, to carry out the con-  
11 veyance under subsection (a), including survey costs, costs  
12 related to environmental documentation, and other admin-  
13 istrative costs related to the conveyance. If amounts are  
14 collected from the grantee in advance of the Secretary in-  
15 ccurring the actual costs, and the amount collected exceeds  
16 the costs actually incurred by the Secretary to carry out  
17 the conveyance, the Secretary shall refund the excess  
18 amount to the grantee.

19       (2) Amounts received as reimbursement under para-  
20 graph (1) shall be credited to the fund or account that  
21 was used to cover the costs incurred by the Secretary in  
22 carrying out the conveyance. Amounts so credited shall be  
23 merged with amounts in such fund or account, and shall  
24 be available for the same purposes, and subject to the

1 same conditions and limitations, as amounts in such fund  
2 or account.

3 (e) EXEMPTION FROM FEDERAL SCREENING.—The  
4 conveyance authorized by subsection (a) is exempt from  
5 the requirement to screen the property for other Federal  
6 use pursuant to sections 2693 and 2696 of title 10, United  
7 States Code.

8 (f) DESCRIPTION OF PROPERTY.—The exact acreage  
9 and legal description of the real property to be conveyed  
10 under subsection (a) shall be determined by a survey satis-  
11 factory to the Secretary.

12 (g) ADDITIONAL TERMS AND CONDITIONS.—The  
13 Secretary may require such additional terms and condi-  
14 tions in connection with the conveyance under subsection  
15 (a) as the Secretary considers appropriate to protect the  
16 interests of the United States.

17 (h) USE OF ALTERNATE CONVEYANCE AUTHOR-  
18 ITY.—In lieu of using the authority provided by this sec-  
19 tion to convey the real property described in subsection  
20 (a), the Secretary may elect to include the property in a  
21 conveyance authorized by section 2878 of title 10, United  
22 States Code, subject to such terms, reservations, restric-  
23 tions, and conditions as may be necessary to ensure the  
24 permanent protection of the property, if the Secretary de-

1 terminates that a conveyance under such section is advan-  
2 tageous to the interests of the United States.

3 **SEC. 2843. LAND EXCHANGE, NAVAL AIR STATION, PATUX-**  
4 **ENT RIVER, MARYLAND.**

5 (a) CONVEYANCE AUTHORIZED.—The Secretary of  
6 the Navy may convey to the State of Maryland (in this  
7 section referred to as “State”), all right, title, and interest  
8 of the United States in and to a parcel of real property,  
9 including improvements thereon, consisting of approxi-  
10 mately five acres at Naval Air Station, Patuxent River,  
11 Maryland, and containing the Point Lookout Lighthouse,  
12 other structures related to the lighthouse, and an archae-  
13 ological site pertaining to the military hospital that was  
14 located on the property during the Civil War. The convey-  
15 ance shall include artifacts pertaining to the military hos-  
16 pital recovered by the Navy and held at the installation.

17 (b) PROPERTY RECEIVED IN EXCHANGE.—As con-  
18 sideration for the conveyance of the real property under  
19 subsection (a), the State shall convey to the United States  
20 a parcel of real property consisting of approximately five  
21 acres located in Point Lookout State Park, St. Mary’s  
22 County, Maryland.

23 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The  
24 Secretary may require the State to cover costs to be in-  
25 curred by the Secretary, or to reimburse the Secretary for

1 costs incurred by the Secretary, to carry out the convey-  
2 ance under subsection (a), including survey costs, costs re-  
3 lated to environmental documentation, relocation expenses  
4 incurred under subsection (b), and other administrative  
5 costs related to the conveyance. If amounts are collected  
6 from the State in advance of the Secretary incurring the  
7 actual costs, and the amount collected exceeds the costs  
8 actually incurred by the Secretary to carry out the convey-  
9 ance, the Secretary shall refund the excess amount to  
10 State.

11 (2) Amounts received as reimbursement under para-  
12 graph (1) shall be credited to the fund or account that  
13 was used to cover the costs incurred by the Secretary in  
14 carrying out the conveyance. Amounts so credited shall be  
15 merged with amounts in such fund or account, and shall  
16 be available for the same purposes, and subject to the  
17 same conditions and limitations, as amounts in such fund  
18 or account.

19 (d) DESCRIPTION OF PROPERTY.—The exact acreage  
20 and legal description of the properties to be conveyed  
21 under this section shall be determined by surveys satisfac-  
22 tory to the Secretary.

23 (e) EXEMPTION FROM FEDERAL SCREENING.—The  
24 conveyance authorized by subsection (a) is exempt from  
25 the requirement to screen the property for other Federal

1 use pursuant to sections 2693 and 2696 of title 10, United  
2 States Code.

3 (f) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
4 retary may require such additional terms and conditions  
5 in connection with the conveyances under this section as  
6 the Secretary considers appropriate to protect the inter-  
7 ests of the United States.

8 **PART III—AIR FORCE CONVEYANCES**

9 **SEC. 2851. LAND EXCHANGE, MAXWELL AIR FORCE BASE,**  
10 **ALABAMA.**

11 (a) CONVEYANCE AUTHORIZED.—The Secretary of  
12 the Air Force may convey to the City of Montgomery, Ala-  
13 bama (in this section referred to as the “City”), all right,  
14 title, and interest of the United States in and to a parcel  
15 of real property, including improvements thereon, con-  
16 sisting of all of the Maxwell Heights Housing site at Max-  
17 well Air Force Base, Alabama.

18 (b) CONSIDERATION.—(1) As consideration for the  
19 conveyance of the real property under subsection (a), the  
20 City shall convey to the United States a parcel of real  
21 property, including improvements thereon, consisting of  
22 approximately 35 acres designated as project AL 6–4 that  
23 is owned by the City and is contiguous to Maxwell Air  
24 Force Base. The Secretary shall have jurisdiction over the  
25 real property received under this paragraph.

1       (2) If the fair market value of the real property re-  
2 ceived under paragraph (1) is less than the fair market  
3 value of the real property conveyed under subsection (a),  
4 the Secretary may require the City to make up the dif-  
5 ference through the payment of cash, the provision of in-  
6 kind consideration, or a combination thereof, to be deter-  
7 mined pursuant to negotiations between the Secretary and  
8 the City.

9       (3) The fair market values of the real property to  
10 be exchanged under this section shall be determined by  
11 appraisals acceptable to the Secretary and the City.

12       (c) DESCRIPTION OF PROPERTY.—The exact acreage  
13 and legal description of the property to be conveyed under  
14 this section shall be determined by surveys satisfactory to  
15 the Secretary.

16       (d) ADDITIONAL TERMS AND CONDITIONS.—The  
17 Secretary may require such additional terms and condi-  
18 tions in connection with the conveyances under this section  
19 as the Secretary considers appropriate to protect the inter-  
20 ests of the United States.

1 **DIVISION C—DEPARTMENT OF**  
2 **ENERGY NATIONAL SECURITY**  
3 **AUTHORIZATIONS AND**  
4 **OTHER AUTHORIZATIONS**  
5 **TITLE XXXI—DEPARTMENT OF**  
6 **ENERGY NATIONAL SECURITY**  
7 **PROGRAMS**  
8 **Subtitle A—National Security**  
9 **Programs Authorizations**

10 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**  
11 **TION.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds  
13 are hereby authorized to be appropriated to the Depart-  
14 ment of Energy for fiscal year 2005 for the activities of  
15 the National Nuclear Security Administration in carrying  
16 out programs necessary for national security in the  
17 amount of \$9,047,700,000, to be allocated as follows:

18 (1) For weapons activities, \$6,577,953,000.

19 (2) For defense nuclear nonproliferation activi-  
20 ties, \$1,338,147,000.

21 (3) For naval reactors, \$797,900,000.

22 (4) For the Office of the Administrator for Nu-  
23 clear Security, \$333,700,000.

24 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—  
25 From funds referred to in subsection (a) that are available

1 for carrying out plant projects, the Secretary of Energy  
2 may carry out, for weapons activities, the following new  
3 plant projects:

4           Project 05–D–140, project engineering and de-  
5 sign, various locations, \$11,600,000.

6           Project 05–D–160, facilities and infrastructure  
7 recapitalization program, project engineering and de-  
8 sign, various locations, \$8,700,000.

9           Project 05–D–170, project engineering and de-  
10 sign, safeguards and security, various locations,  
11 \$17,000,000.

12           Project 05–D–401, production bays upgrade,  
13 Pantex Plant, Amarillo, Texas, \$25,100,000.

14           Project 05–D–402, beryllium capability project,  
15 Y–12 national security complex, Oak Ridge, Ten-  
16 nessee, \$3,627,000.

17           Project 05–D–601, compressed air upgrades  
18 project, Y–12 national security complex, Oak Ridge,  
19 Tennessee, \$4,400,000.

20           Project 05–D–602, power grid infrastructure  
21 upgrade, Los Alamos National Laboratory, Los Ala-  
22 mos, New Mexico, \$10,000,000.

23           Project 05–D–603, new master substation,  
24 Sandia National Laboratories, Albuquerque, New  
25 Mexico, \$600,000.



1           Project 05–D–701, security perimeter, Los Ala-  
2           mos National Laboratory, Los Alamos, New Mexico,  
3           \$20,000,000.

4   **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

5           Funds are hereby authorized to be appropriated to  
6   the Department of Energy for fiscal year 2005 for envi-  
7   ronmental management activities in carrying out pro-  
8   grams necessary for national security in the amount of  
9   \$6,863,307,000, to be allocated as follows:

10           (1) For defense site acceleration completion,  
11           \$5,876,837,000.

12           (2) For defense environmental services,  
13           \$986,470,000.

14   **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

15           Funds are hereby authorized to be appropriated to  
16   the Department of Energy for fiscal year 2005 for other  
17   defense activities in carrying out programs necessary for  
18   national security in the amount of \$658,618,000.

19   **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

20           Funds are hereby authorized to be appropriated to  
21   the Department of Energy for fiscal year 2005 for defense  
22   nuclear waste disposal for payment to the Nuclear Waste  
23   Fund established in section 302(c) of the Nuclear Waste  
24   Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount  
25   of \$131,000,000.

1 **Subtitle B—Program Authoriza-**  
2 **tions, Restrictions, and Limita-**  
3 **tions**

4 **SEC. 3111. EXTENSION OF AUTHORITY FOR APPOINTMENT**  
5 **OF CERTAIN SCIENTIFIC, ENGINEERING, AND**  
6 **TECHNICAL PERSONNEL.**

7 Section 4601 of the Atomic Energy Defense Act (50  
8 U.S.C. 2701) is amended by striking “September 30,  
9 2004” and inserting “September 30, 2006”.

10 **SEC. 3112. REQUIREMENTS FOR BASELINE OF PROJECTS**  
11 **UNDER FACILITIES AND INFRASTRUCTURE**  
12 **RECAPITALIZATION PROGRAM.**

13 Subsection (a) of section 3114 of the National De-  
14 fense Authorization Act for Fiscal Year 2004 (Public Law  
15 108-136; 117 Stat. 1744; 50 U.S.C. 2453 note) is  
16 amended—

17 (1) in paragraph (1) by inserting “of a base-  
18 line” after “selection”; and

19 (2) by amending paragraph (2) to read as fol-  
20 lows:

21 “(2)(A) After December 31, 2004, a project  
22 may be added to or removed from the Facilities and  
23 Infrastructure Recapitalization Program only after  
24 the Administrator submits to the congressional de-  
25 fense committees a notice that the Administrator

1 has identified such project for addition or removal  
2 and has approved such addition or removal as a  
3 modification to the baseline for that program.

4 “(B) The Administrator may not obligate funds  
5 for any project added under subparagraph (A) until  
6 a period of 60 days has elapsed after the date on  
7 which such committees receive the notice under sub-  
8 paragraph (A) with respect to that project.

9 “(C) The authority of the Administrator to  
10 identify and approve under subparagraph (A) may  
11 not be delegated.”.

## 12 **Subtitle C—Other Matters**

### 13 **SEC. 3131. TRANSFERS AND REPROGRAMMINGS OF NA-** 14 **TIONAL NUCLEAR SECURITY ADMINISTRA-** 15 **TION FUNDS.**

16 Section 3252 of the National Nuclear Security Ad-  
17 ministration Act (50 U.S.C. 2452) is amended by adding  
18 at the end the following new subsection:

19 “(d) **TRANSFER AND REPROGRAMMING PROCESS.**—  
20 (1) The Administrator shall have sole jurisdiction within  
21 the Department of Energy to submit to Congress or the  
22 appropriate congressional committees a notice of, or re-  
23 quest for, a transfer or reprogramming of funds of the  
24 Administration.

1       “(2) The functions of the Chief Financial Officer of  
2 the Department of Energy shall not apply to a notice or  
3 request described in paragraph (1), except to certify  
4 whether the funds covered by such notice or request are  
5 available.”.

6 **SEC. 3132. NATIONAL ACADEMY OF SCIENCES STUDY ON**  
7 **MANAGEMENT BY DEPARTMENT OF ENERGY**  
8 **OF HIGH-LEVEL RADIOACTIVE WASTE.**

9       (a) REVIEW REQUIRED.—The Secretary of Energy  
10 shall enter into an arrangement with the National Re-  
11 search Council of the National Academy of Sciences to  
12 carry out a study of the plans of the Department of En-  
13 ergy to manage the waste streams specified in subsection  
14 (b) that are not currently planned for disposal in a high-  
15 level repository.

16       (b) COVERED WASTE STREAMS.—The waste streams  
17 referred to in subsection (a) are the streams of high-level  
18 radioactive waste at—

- 19               (1) the Savannah River Site, South Carolina;  
20               (2) the Idaho National Engineering Laboratory,  
21       Idaho; and  
22               (3) the Hanford Reservation, Washington.

23       (c) MATTERS INCLUDED.—The study required by  
24 subsection (a) shall evaluate—

1           (1) the physical, chemical, and radiological  
2           characteristics of the waste referred to in subsection  
3           (b), including specifically the waste proposed to be  
4           left indefinitely in storage tanks;

5           (2) the probability that such waste, if left in-  
6           definitely in storage tanks, will leak into the environ-  
7           ment and the range of potential dangers such leak-  
8           age would represent;

9           (3) the plans of the Department for the dis-  
10          posal of the high-level radioactive waste that the De-  
11          partment had planned, before certain litigation in  
12          Federal district court in 2003 on “Waste Incidental  
13          to Reprocessing”, to reclassify as low-level waste;

14          (4) treatment and disposal alternatives to the  
15          plans referred to in paragraph (3), including, for  
16          each such alternative, assessments of the technology  
17          approaches and of the implications with respect to  
18          cost, worker safety, and long-term environmental  
19          and human health;

20          (5) the adequacy of the plans referred to in  
21          subsection (a), including Department of Energy  
22          Order No. 435.1, to protect, for the long term, the  
23          environment and population surrounding each site  
24          referred to in subsection (b); and

1           (6) any other matters that the National Re-  
2           search Council considers appropriate and directly re-  
3           lated to the subject matter of the study.

4           (d) RECOMMENDATIONS REQUIRED.—In carrying out  
5           the study, the National Research Council shall develop  
6           recommendations relating to the subject matter of the  
7           study. The recommendations shall include—

8           (1) recommendations for improving the sci-  
9           entific basis for managing the waste covered by the  
10          study, including alternative criteria for determining  
11          what waste should be managed as “Waste Incidental  
12          to Reprocessing”; and

13          (2) any other recommendations that the Na-  
14          tional Research Council considers appropriate and  
15          directly related to the subject matter of the study.

16          (e) REPORTS.—The National Research Council shall  
17          submit to the Secretary of Energy and the congressional  
18          defense committees—

19          (1) not later than six months after entering  
20          into the arrangement required by subsection (a), an  
21          interim report on the study with respect to the waste  
22          proposed to be left indefinitely in storage tanks, in-  
23          cluding the tentative findings, conclusions, and rec-  
24          ommendations with respect to such waste; and

1           (2) not later than one year after entering into  
2           the arrangement required by subsection (a), a final  
3           report on the study, including all findings, conclu-  
4           sions, and recommendations.

5           (f) PROVISION OF INFORMATION.—The Secretary  
6           shall make available to the National Research Council all  
7           information that the National Research Council considers  
8           necessary to carry out, in a timely manner, its responsibil-  
9           ities under this section.

10          (g) FUNDING.—Of the amounts authorized to be ap-  
11          propriated to the Department of Energy by section 3102,  
12          \$1,500,000 shall be available only for carrying out the  
13          study required by this section.

14          **SEC. 3133. CONTRACT TO REVIEW WASTE ISOLATION PILOT**  
15                                   **PLANT, NEW MEXICO.**

16          The Secretary of Energy shall enter into a contract  
17          to conduct independent reviews and evaluations of the de-  
18          sign, construction, and operations of the Waste Isolation  
19          Pilot Plant in New Mexico as they relate to the protection  
20          of the public health and safety and the environment. The  
21          contract shall be for a period of one year and shall be  
22          renewable for four additional one-year periods, subject to  
23          the authorization and appropriation of funds for such pur-  
24          pose.

1 **SEC. 3134. ADDITIONAL AMOUNT FOR DEFENSE SITE AC-**  
2 **CELERATION COMPLETION.**

3 (a) **ADDITIONAL AMOUNT.**—The amount in section  
4 3102 is hereby increased by \$50,000,000, to be available  
5 under section 3102(1) for defense site acceleration com-  
6 pletion.

7 (b) **OFFSET.**—The amount in section 301(4), oper-  
8 ation and maintenance, Air Force, is hereby reduced by  
9 \$50,000,000, to be derived from the transportation capital  
10 fund.

11 **SECTION 3135. IMPROVEMENTS TO ENERGY EMPLOYEES**  
12 **OCCUPATIONAL ILLNESS COMPENSATION**  
13 **PROGRAM.**

14 (a) **STATE AGREEMENTS.**—Section 3661 of the En-  
15 ergy Employees Occupational Illness Compensation Pro-  
16 gram Act of 2000 (42 U.S.C. 7385o) is amended—

17 (1) in subsection (b) by striking “Pursuant to  
18 agreements under subsection (a), the” and inserting  
19 “The”;

20 (2) in subsection (c) by striking “provided in an  
21 agreement under subsection (a), and if”; and

22 (3) in subsection (e) by striking “If provided in  
23 an agreement under subsection (a)” and inserting  
24 “If a panel reports a determination under subsection  
25 (d)(5)”.



1 (b) SELECTION OF PANEL MEMBERS.—Section 3661  
 2 of that Act (42 U.S.C. 7385o) is further amended in sub-  
 3 section (d) by amending paragraph (2) to read as follows:

4 “(2) The Secretary of Health and Human Serv-  
 5 ices shall select individuals to serve as panel mem-  
 6 bers based on experience and competency in diag-  
 7 nosing occupational illnesses. For each individual so  
 8 selected, the Secretary shall appoint that individual  
 9 as a panel member or obtain by contract the services  
 10 of that individual as a panel member.”.

11 **TITLE XXXII—DEFENSE NU-**  
 12 **CLEAR FACILITIES SAFETY**  
 13 **BOARD**

14 **SEC. 3201. AUTHORIZATION.**

15 There are authorized to be appropriated for fiscal  
 16 year 2005, \$21,268,000 for the operation of the Defense  
 17 Nuclear Facilities Safety Board under chapter 21 of the  
 18 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

19 **TITLE XXXIII—NATIONAL**  
 20 **DEFENSE STOCKPILE**

21 **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE**  
 22 **STOCKPILE FUNDS.**

23 (a) OBLIGATION OF STOCKPILE FUNDS.—During fis-  
 24 cal year 2005, the National Defense Stockpile Manager  
 25 may obligate up to \$59,700,000 of the funds in the Na-

1 tional Defense Stockpile Transaction Fund established  
2 under subsection (a) of section 9 of the Strategic and Crit-  
3 ical Materials Stock Piling Act (50 U.S.C. 98h) for the  
4 authorized uses of such funds under subsection (b)(2) of  
5 such section, including the disposal of hazardous materials  
6 that are environmentally sensitive.

7 (b) ADDITIONAL OBLIGATIONS.—The National De-  
8 fense Stockpile Manager may obligate amounts in excess  
9 of the amount specified in subsection (a) if the National  
10 Defense Stockpile Manager notifies Congress that extraor-  
11 dinary or emergency conditions necessitate the additional  
12 obligations. The National Defense Stockpile Manager may  
13 make the additional obligations described in the notifica-  
14 tion after the end of the 45-day period beginning on the  
15 date on which Congress receives the notification.

16 (c) LIMITATIONS.—The authorities provided by this  
17 section shall be subject to such limitations as may be pro-  
18 vided in appropriations Acts.

19 **SEC. 3302. RELAXATION OF QUANTITY RESTRICTIONS ON**  
20 **DISPOSAL OF MANGANESE FERRO IN NA-**  
21 **TIONAL DEFENSE STOCKPILE.**

22 Section 3306(a) of the National Defense Authoriza-  
23 tion Act for Fiscal Year 2002 (Public Law 107–107; 115  
24 Stat. 1391; 50 U.S.C. 98d note) is amended—

1 (1) in paragraph (3), by striking “each of the  
 2 fiscal years 2004 and 2005” and inserting “fiscal  
 3 year 2004”; and

4 (2) by adding at the end the following new  
 5 paragraph:

6 “(4) During fiscal year 2005, 100,000 short  
 7 tons of high carbon manganese ferro of the highest  
 8 grade.

9 **SEC. 3303. REVISION OF EARLIER AUTHORITY TO DISPOSE**  
 10 **OF CERTAIN MATERIALS IN NATIONAL DE-**  
 11 **FENSE STOCKPILE.**

12 Section 3303(a) of the Strom Thurmond National  
 13 Defense Authorization Act for Fiscal Year 1999 (Public  
 14 Law 105–261; 50 U.S.C. 98d note) is amended by striking  
 15 paragraphs (4) and (5) and inserting the following new  
 16 paragraphs:

17 “(4) \$785,000,000 by the end of fiscal year  
 18 2005; and

19 “(5) \$870,000,000 by the end of fiscal year  
 20 2009.”.

21 **TITLE XXXIV—NAVAL**  
 22 **PETROLEUM RESERVES**

23 **SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
 25 are hereby authorized to be appropriated to the Secretary

1 of Energy \$20,000,000 for fiscal year 2005 for the pur-  
2 pose of carrying out activities under chapter 641 of title  
3 10, United States Code, relating to the naval petroleum  
4 reserves.

5 (b) PERIOD OF AVAILABILITY.—Funds appropriated  
6 pursuant to the authorization of appropriations in sub-  
7 section (a) shall remain available until expended.

## 8 **TITLE XXXV—MARITIME** 9 **ADMINISTRATION**

### 10 **SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR MAR-** 11 **ITIME ADMINISTRATION.**

12 There are authorized to be appropriated to the Sec-  
13 retary of Transportation for the Maritime Administration  
14 for fiscal year 2005 (in lieu of amounts authorized for the  
15 same purposes by section 3511 of the National Defense  
16 Authorization Act for Fiscal Year 2004)—

17 (1) for expenses necessary for operations and  
18 training activities, \$109,300,000;

19 (2) for administrative expenses under the loan  
20 guarantee program authorized by title XI of the  
21 Merchant Marine Act, 1936 (46 U.S.C. App. 1271  
22 et seq.), \$4,764,000; and

23 (3) for ship disposal, \$35,000,000, of which  
24 \$2,000,000 shall be for decommissioning, removal,

1       and disposal of the nuclear reactor and hazardous  
2       materials on board the vessel SAVANNAH.

3   **SEC. 3502. EXTENSION OF AUTHORITY TO PROVIDE WAR**  
4                   **RISK INSURANCE FOR MERCHANT MARINE**  
5                   **VESSELS.**

6       (a) EXTENSION.—Section 1214 of the Merchant Ma-  
7   rine Act, 1936 (46 U.S.C. App. 1294), is amended by  
8   striking “June 30, 2005” and inserting “December 31,  
9   2010”.

10      (b) INVESTMENT OF ASSETS IN INSURANCE FUND.—  
11   Section 1208(a) of such Act (46 U.S.C. App. 1288), is  
12   amended by striking the third sentence and inserting the  
13   following: “The Secretary of Transportation may request  
14   the Secretary of the Treasury to invest such portion of  
15   the Fund as is not, in the judgment of the Secretary of  
16   Transportation, required to meet the current needs of the  
17   fund. Such investments shall be made by the Secretary  
18   of the Treasury in public debt securities of the United  
19   States, with maturities suitable to the needs of the fund,  
20   and bearing interest rates determined by the Secretary of  
21   the Treasury, taking into consideration current market  
22   yields on outstanding marketable obligations of the United  
23   States of comparable maturity.”.

1   **TITLE XXXVI—SMALL BUSINESS**  
2                   **ADMINISTRATION**

3   **SEC. 3601. ADDITION OF LANDSCAPING AND PEST CON-**  
4                   **TROL SERVICES TO LIST OF DESIGNATED IN-**  
5                   **DUSTRY GROUPS PARTICIPATING IN THE**  
6                   **SMALL BUSINESS COMPETITIVENESS DEM-**  
7                   **ONSTRATION PROGRAM.**

8           (a) IN GENERAL.—Subsection (a) of section 717 of  
9 the Small Business Competitiveness Demonstration Pro-  
10 gram Act of 1988 (15 U.S.C. 644 note) is amended—

11               (1) in paragraph (3), by striking “and” at the  
12               end;

13               (2) in paragraph (4), by striking the period at  
14               the end and inserting “; and”; and

15               (3) by adding at the end the following new  
16               paragraph:

17                       “(5) landscaping and pest control services.”.

18           (b) LANDSCAPING AND PEST CONTROL SERVICES.—  
19 Section 717 of the Small Business Competitiveness Dem-  
20 onstration Program Act of 1988 (15 U.S.C. 644 note) is  
21 amended—

22               (1) by redesignating subsection (e) as sub-  
23               section (f), and

24               (2) by inserting after subsection (d) the fol-  
25               lowing new subsection:

1       “(e) LANDSCAPING AND PEST CONTROL SERV-  
2 ICES.—Landscaping and pest control services shall include  
3 contract awards assigned to North American Industrial  
4 Classification Code 561710 (relating to exterminating and  
5 pest control services) or 561730 (relating to landscaping  
6 services).”.

Passed the House of Representatives May 20, 2004.

Attest:

*Clerk.*





108TH CONGRESS  
2D SESSION

# H. R. 4200

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## AN ACT

To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.